UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

10-CR-19 (JG)

-against-

United States Courthouse

: Brooklyn, New York

ADIS MEDUNJINAN,

Defendant.

: April 23, 2012
9: 30 o'clock a.m.

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TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE JOHN GLEESON
UNITED STATES DISTRICT JUDGE , and a jury.

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Proceedings recorded by mechanical stenography, transcript produced by CAT.

M O R N I N G S E S S I O N

(Jury not present)

THE COURT: Good morning. Please be seated.
All right. How much more do we have?
MR. BITKOWER: Approximately two and a half hours, Your Honor.
THE COURT:
MR. GOTTLIEB: Before we begin, when we left off on Friday there was the issue of Zakir Khan and immunity, and over the weekend we were speaking with the Assistant and I believe we've agreed to a provide proposed limiting instruction that Your Honor could give you were of the mind to do it this morning.
MR. LOONAM: Actually, I don't think we agreed on timing.
THE COURT: Oh, come on. Let me see it.
MR. GOTTLIEB: Yes (handing up to the Court).
THE COURT: Seems sensible (perusing). I'll just tell

them now, and I'll tell them again during the instructions.

MR. LOONAM: Fine, Your Honor.

MR. GOTTLIEB: Thank you.

THE COURT: All right. Tell them we're ready, Ilene, please.

What is this witness' name again?

MR. BITKOWER: Badat B-A-D-A-T.

(Whereupon, the jury entered the courtroom)

THE COURT: Hello, everybody. Nice to see you again. Hope you had a nice weekend. Welcome back.

The transcript books should still be there. We were watching and listening to the testimony of Mr. About date.

What page are we on?

MR. BITKOWER: Bottom of page eight.

THE COURT: I will give everybody a chance to get there and then you can start it.

MR. GOTTLIEB: Your Honor, will you go through the --

THE COURT: Yes, I forgot.

Before that, there's something I wanted to tell you about the testimony of Zakir Khan, remember him? He was granted immunity in connection with his testimony. There are a few questions about that at the outset of his testimony. You can consider this grant of immunity when you asses Mr. Khan's credibility but you can't speculate as to why he was granted immunity. Just because a witness has been granted immunity you should not conclude on that basis that the witness has necessarily committed any crime.

All right. Back to the transcripts bottom of page?

MR. LOONAM: Page eight, Your Honor.

MR. BITKOWER: Page eight.

THE COURT: Go ahead Mr. Bitkower, you can start the tape.

MR. BITKOWER: Line seven, Your Honor.

THE COURT: Do you happen to have a spare transcript book?

MR. BITKOWER: Yes, Your Honor.

THE COURT: Thank you.

(Tape playing)

MR. BITKOWER: We have audio but no video.

We are in the middle of page nine.

THE COURT: Middle of page nine everyone.

MR. BITKOWER: At this point I am going to move Government Exhibit 100 into evidence.

THE COURT: Any objection?

MR. GOTTLIEB: No.

THE COURT: Received.

(Government Exhibit 100 received and marked into evidence).

MR. BITKOWER: I am going to move in 100-C clip from the video.

MR. GOTTLIEB: No objection.

THE COURT: Received.

(Government Exhibit 100-C received and marked into evidence)

MR. BITKOWER: Publish 100-C, publish again name plate.

THE COURT: This is a person he's identifying in the video?

MR. BITKOWER: Yes, underneath Government Exhibit Seven I am putting the name Jafar-al-Tayyar.

(Tape continued)

(Continued on next page)

(Tape plays.)

(Tape stops.)

MR. GOTTLIEB: Your Honor, may we approach the bench for just a moment, please?

THE COURT: Yes.

(Sidebar.)

THE COURT: You need a break for starting your cross-examination?

MR. GOTTLIEB: It is very strange, I have to say.

My client had leaned over and said he very much has to have a break and go to the rest room and rather than waiting until 11:30, can we take a short break now?

THE COURT: Sure.

(In open court.)

THE COURT: All right. We'll take a short break before we hear the cross-examination.

Don't discuss the case. We'll resume in ten minutes. All rise.

(Jury excused.)

THE COURT: Okay.

MR. GOTTLIEB: Thank you.

THE COURT: I promise not to touch anything. In eight or nine minutes, try a dry run before we bring the jury back in.

(Recess taken.)

(In open court; jury not present.)

THE COURT: Are you ready?

MR. BITKOWER: We are, your Honor.

THE COURT: Ready for your cross?

MR. GOTTLIEB: Yes, your Honor. I have my water. Thank you.

THE COURT: Ask the jury to come in, please.

(Jury present.)

THE COURT: All right. Please, everyone, have a seat.

If all goes well, we'll both see and hear the cross of this Mr. Badat when Ms. Berger presses the button.

(Tape plays.)

(Continued on next page.)

(Videotape stops.)

THE COURT: All right.

MR. GOTTLIEB: May I speak to the Assistant just a for a second?

THE COURT: Yes.

(Pause.)

MR. GOTTLIEB: Your Honor, at this time I would ask that the three photographs that were marked and shown to the witness, specifically Defendant's Exhibit A, B and C, be received in evidence.

THE COURT: Any objection?

MR. BITKOWER: No, your Honor.

MR. GOTTLIEB: Also, your Honor, with the stipulation that Defendant's A, which I am now showing to the jury.

THE COURT: A is received.

(So marked.)

MR. GOTTLIEB: Defendant's A that was shown was Adis Medunjanin. Defendant's Exhibit B --

THE COURT: B is received and is C.

(So marked.)

MR. GOTTLIEB: -- that was shown to the witness was Zarein Ahmedzay, and Defendant's C in evidence, by stipulation, being Najibullah Zazi.

THE COURT: All right. Received.

Call your next witness.

MR. BITKOWER: Your Honor, our next piece of evidence is a stipulation.

THE COURT: All right.

MR. BITKOWER: Marked Government Exhibit 451.

THE COURT: Received.

(So marked.)

MR. BITKOWER: It reads: If called at trial, a professor of Communications at Broward County College in Pembroke Pines, Florida, would testify as follows:

Adnan Shukrijumah was a student in a Communications class at Broward County College in approximately the summer of 1997. The Communications class was part of the college's English as a Second Language Program.

Government Exhibit 100 is a video recording of a presentation by Adnan Shukrijumah that was created as part of the communications class.

The parties agree to the admissibility of this stipulation, which has been marked for identification as Government Exhibit 451.

THE COURT: You're offering 100 based on that?

MR. BITKOWER: 100 was offered during the playing of the tape. With this one, I'll publish the name plate to go with the chart.

MR. LOONAM: The government calls Bryant Neal Vinas.

THE COURT: Can I see counsel at sidebar.

(Sidebar.)

THE COURT: This witness has a case in front of Judge Garaufis?

MR. BITKOWER: Yes.

THE COURT: I guess in anticipation of sentencing him he wants to see him testify and there is not a loss of space.

So, I have authorized the marshals to let him sit, him and his clerks or somebody, sit inside the swinging the doors in the front pew. Just so you know.

All right. I don't intend to identify them. Just so there are no surprises.

MR. LOONAM: Has Judge Garaufis been notified?

THE COURT: I haven't notified him.

You can have your agent go out and call him.

(Open court.)

(Continued next page.)

(Open court.)

THE COURT: Everyone take a seat except the witness. Could you stand up.

BRYANT NEAL VINAS,

called as a witness, having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LOONAM:

MR. LOONAM: May I inquire?

THE COURT: Yes.

Q Mr. Vinas, how old are you?

A Twenty-nine.

Q Where did you grow up?

A Long Island.

Q How far did you get in school?

A I graduated high school.

Q And where did you go to high school?

A Longwood.

Q Have you ever held any legitimate jobs?

A Yes.

Q Can you please list those jobs for the court.

A Truck driving, forklift operator. I worked in a car wash, cabdriver.

Q Did you ever spend time in the United States military?

A Yes.

Q When did you spend time in the United States military?
A March of 2002.
Q How long did you spend inside the United States military?
A About three weeks.
Q Which branch?
A The Army.
Q Did you receive any weapons training during your three weeks in the United States Army?
A No.
Q What did you do during your three weeks with the military?
A Learning marches, the different songs, how to dress correctly, how to prepare your room correctly.
Q And why did you leave the Army?
A I found it too, too difficult. I found that it was mentally overwhelming.
Q And when you left the army how close were you to being in a position to receive weapons training?
A I left just before they were issuing out rifles.
Q And did the army allow you to leave after three weeks?
A Yes.
Q What type of discharge did you receiving?
A General discharge.
Q Did you practice any particular religion?
A Yes.

Q What religion is that?
A Islam.
Q Have you always been a Muslim?
A No.
Q When approximately did you convert to Islam?
A January of '04.
Q Have you ever been arrested?
A Yes.
Q How many times have you been arrested?
A Once.
Q And when were you arrested?
A November of 2008.
Q Where were you arrested?
A Peshawar, Pakistan.
Q Who arrested you in November of 2008?
A Pakistani authorities.
Q Were you prosecuted in connection with your arrest in Peshawar, Pakistan in November 2008?
A Yes.
Q Where were you prosecuted?
A In Brooklyn.
Q Have you pleaded guilty to any crimes in connection with that case?
A Yes.
Q Which crimes have you pleaded guilty to?

A Conspiracy to murder, providing material support to a terrorist organization, and receiving training from a terrorist organization.
Q The first crime that you mentioned was conspiracy to murder, correct?
A Yes.
Q Who did you conspire to murder?
A U.S. coalition forces.
Q And who did you conspire to commit murder with?
A Al-Qaeda.
Q The second charge that you mentioned was providing material support to a terrorist organization. Correct?
A Yes.
Q Which terrorist organization did you provide material support to go?
A Al-Qaeda.
Q Again, the third charge was receiving military type training from a terrorist organization. Which terrorist organization did you receive military type training from?
A Al-Qaeda.
Q Where did you commit these crimes with al Qaeda?
A In Waziristan, Pakistan.
MR. LOONAM: Your Honor, I'm going to publish on the Elmo what is in evidence as Government Exhibit 301.
THE COURT: Yes.

(Pause.)
Q Mr. Vinas, do you see the map depicted on Government's Exhibits 301?
A Yes.
Q Could you please indicate on the screen in front of you where the Waziristan region is that you committed these crimes with al-Qaeda?
A Here.
MR. LOONAM: Indicating north of Waziristan, your Honor?
THE COURT: All right.
Q When did you join up with al-Qaeda?
A End of March 2008.
Q How long were you with al-Qaeda?
A Up until November of '08.
Q So you were with al-Qaeda from March 2008 to November 2008, correct?
A Yes.
Q Let's take a step back. You testified that you were with al-Qaeda in the Waziristan region of Pakistan, correct?
A Yes.
Q When did you travel to Pakistan?
A September of '07.
Q And where did you travel to Pakistan from?
A I went from New York to Abu Dhabi, Abu Dhabi to Lahore.

Q And where is Lahore?
A Eastern Pakistan.
Q And those stops along the way, were they transit points?
A Yes.
Q What was your primary reason for traveling to Pakistan in September of 2007?
A To join with the jihadi groups to go fight in Afghanistan against U.S. coalition forces.
Q When you say jihadi groups, tell the court what you mean.
A A militant group, fighters that were religiously based on Islam jihad to fight in Afghanistan.
Q When you say Islamic jihad, please tell us what you mean by jihad?
A To fight an invading army in a Muslim country.
Q Who was the invading army that you wanted to fight?
A U.S. coalition forces.
Q And fighting that invading army, did that include killing service members from that invading army?
A Yes.
Q Now, can you tell the jury what your view was of American foreign policy prior to traveling to Pakistan in September 2007.
A I did not like U.S. foreign policy. I did not like the invasion and occupation of the Afghanistan, of Iraq and its support of Israel against Palestinians.

Q Can you tell the jury what motivated you to travel to Pakistan to fight jihad?
A Speeches by Anwar al-Awlalki and a book called Inside the Jihad, by Omar Nasiri.
Q Tell us a little bit about that book, how did that book motivate you, the Inside the Jihad book, by Omar Nasiri, how did that book motivate you to fight jihad?
A It explained how a Belgium of Moroccan descent was able to go to Pakistan and eventually find his way to cross into Afghanistan and join al-Qaeda.
Q Now, why did you travel to Pakistan to fight jihad in Afghanistan, why not travel directly to Afghanistan?
A That would have appeared very suspicious to the authorities.
Q Prior to traveling to Pakistan, did you have any intention or expectation that you would join with al-Qaeda?
A No.
Q What was your plan or expectation of what you would do upon arriving in Pakistan?
A I would eventually try to find a madressa, which is an Islamic school, and eventually befriend a local Pashtun, hoping that that person would eventually have contacts with militants to go into Afghanistan.
Q And where did you get the idea that that plan could work?
A Inside the Jihad, by Omar Nasiri.

Q Did you tell your friends and acquaintances the truth about why you were traveling to Pakistan?
A Some.
Q The ones that you did not tell the truth to, what did you tell them?
A That I was just going to study over there.
Q Let's discuss logistics for a little bit. What type of airline ticket did you buy to travel to Pakistan?
A A round trip.
Q Did you have any intention of returning to the United States when you left for Pakistan?
A No.
Q What did you think would happen when you got to Pakistan?
A That I would eventually go to a madressa to hook up with someone who tell me how to get into an insurgent group.
Q And upon joining an insurgent group what was your intention of what would happen to you?
A That I would die within a few weeks of fighting in Afghanistan.
Q So why did you buy a round trip ticket?
A To appear less suspicious at Customs.
Q You testified that you flew into Lahore; correct?
A Yes.
Q Were there any particular cities that you wanted to avoid flying into?

A Yes.
Q Which cities did you want to avoid flying into?
A Peshawar.
Q Why?
A That was close to the Afghanistan border.
Q By the way, what did you pack when you traveled to Pakistan to fight jihad?
A Clothes, hygiene products, and my MP3 player.
Q Did you pack any special equipment such as camouflage clothing, binoculars, night vision to fight jihad?
A No.
Q Why didn't you pack these items that could be useful in fighting jihad when you were traveling?
A It would have looked very suspicious if somebody saw me with those.
Q You testified that you arrived in Pakistan in September 2007 but you did not join al-Qaeda until March 2008. Correct?
A Yes.
Q Prior to joining with al-Qaeda, did you join a different jihadist fighting group?
A Yes.
Q Did that group have a name?
A We called it the Shah Sahb Group.
Q Why was it called the Shah Sahb Group?

A A man called Shah Sahb was the leader of the group.
Q So Shah Sahb was a person?
A Yes.
Q About how long after you arrived in Pakistan were you able to join a jihadist fighting group?
A About a week and a half.
Q Did you make arrangements to join Shah Sahb's fighting group while you were in the United States or did you make those arrangements while you were in Pakistan?
A When I was in Pakistan.
Q Can you summarize for the court how you managed to get into a jihadist fighting group within a week and a half of arriving in Pakistan?
A There was an Afghan family living on the same street that I was staying at and the people that I was living with, I asked them if they could speak with that family on my behalf to see if they knew anybody who get me into an insurgent group inside of Afghanistan.
Q Did that work out?
A Yes.
Q How did that work out?
A The family introduced me to their cousin and the cousin introduced me to a friend of his named Ahmed, Ahmed introduced me to Zazubaid introduced me to Shah Sahb.
Q Before you were introduced to this family, when you are

were in Lahore, did you have an a contact or a friend in Lahore who you had known while you with in New York?
A Yes.
Q Did that friend or contact know that you were going to Pakistan to fight jihad before you actually traveled to Pakistan?
A No.
Q What languages did you speak at the time you joined Shah Sahb's Group?
A English, decent Spanish.
Q What language or languages did most people in Shah Sahb's Group speak?
A Pashtun, Urdu, Arabic and English.
Q How did you manage to communicate with the members in Shah Sahb's Group who did not speak English?
A Those could speak English would translate on my behalf.
Q Where was Shah Sahb's Group based?
A In Peshawar and Mohmand Agency.
Q And do you know if those areas appear on Government Exhibit 301 that is up on the screen?
A Yes.
Q Just point those out for the members of the jury?
A Yes.
Q Indicating Mohmand and Peshawar.
How close is that to the border with Afghanistan?

A Very close.
Q Now, who did Shah Sahb's Group fight against?
A U.S. coalition forces and Afghanistan army.
Q Did you take part in any operations as part of this jihadist fighting group led by Shah Sahb?
A Yes.
Q How many operations did you take part in?
A One.
Q Can you please tell jury through what the plan was for that operation.
A A group of us would cross the mountains to the Afghanistan border. We would go to Kunar Province. One group would splinter off and fight an Afghan base, another group would go and set up a mortar attack for a U.S. base.
Q And what was the plan for you in conducting the operation, which group were you going to be part of?
A The mortar team.
Q Please tell the court what actually happened on that mission.
A The group that splintered off to attack the Afghan base succeeded in attacking the base and came back. My group that was to participate in the mortar attack, we went there but there were too many planes flying overhead so we just ended up stashing the ammunition and went back to Pakistan.
Q Why did you stash the ammunition because there were too

many planes flying overhead, what was the significance of that?
A We all could have been wiped out.
Q Now, did you ever speculate with any of Shah Sahb's other fighters about any potential casualties that may have been caused by the group's attack that was able to attack the Afghan base?
A Yes.
Q What was that discussion?
A Me and another fighter were in Peshawar and we went to an Internet cafe and he checked a U.S. servicemen death list and he pointed out two people that were killed on the date of the same attack that he participated in.
Q And you were part of the larger group that that splinter group broke off from, correct?
A Yes.
Q Now, did you have any ability to confirm whether or not the two service members killed in that attack had been at that Afghan base?
A No.
Q How long were you with this fighting group led by Shah Sahb before you took part in this operation against the U.S. military base in Afghanistan?
A A few days. Less than a week.
Q How long had you been in Pakistan before you were able to

take part in this operation against the U.S. base?
A About two weeks.
Q Were you given any training whatsoever before you were allowed to participate in the operation to attack an American base?
A No.
Q Did you conduct any further operation with Shah Sahb's fighting group?
A No.
Q After you conducted the operation were you asked if you would be willing to conduct a different type of mission?
A Yes.
Q What type of mission was that?
A A martyrdom operation. It's also called a suicide bombing attack.
Q Did you agree to conduct a martyrdom operation or a suicide bombing attack?
A Yes.
Q Why?
A I was having a difficult time the altitude, I was getting very sick, so I felt that it would be easier to do a martyrdom operation.
Q What did you believe the rewards were for a suicide bomber?
A That you would be considered a martyr. That's the

highest, most honorable death in jihad.
Q And what comes along with having an honorable death, are there any benefits to being a martyr?
A Yes. You are forgiven of all your sins. You do not have to face the torment on the day of judgment. You are rewarded with 72 virgin wives. You can ask forgiveness for a certain amount of family members.
Q How long had you been with Shah Sahb fighting group before you were asked if you would be willing to conduct a suicide bombing operation?
A About a week.
Q Were you are ultimately given the opportunity to become a suicide bomber?
A No.
Q Why not, what were told about why you weren't allowed to become a suicide bomber.
A They told me I didn't have enough religious knowledge.
Q Did you ultimately leave Shah Sahb's fighting group?
A Yes.
Q Why?
A I had heard from several people that they had links with the Pakistani ISI.
Q What is the Pakistani ISI?
A Pakistani Intelligence Services.
Q And why did you want to leave Shah Sahb's fighting group

because you heard these rumors that they were affiliated with the Pakistani Intelligence Service?
A I didn't want to do ISI's dirty work.
Q When approximately did you leave Shah Sahb's fighting group?
A December of '07.
Q You testified before you didn't join al-Qaeda until March 2008, correct?
A Yes.
Q So generally describe to the court what you did between December 2007 and March 2008.
A I was trying to find a group to -- an insurgent group to join and go fight in Afghanistan.
Q Is it fair to say that you met a lot of people during those few months?
A Yes.
Q Did you receive any training during that period?
A Yes.
Q Can you describe that training..
A I met a man named Salim and he took me under his wing. And he had a couple of weapons that he let me fire off. I fired off an AK-47, PK machine gun, an RPG-7 and some Soviet pistols.
Q And during that two month period did you receive any offers to join any jihadist fighting groups?

A Yes.
Q Which fighting groups did you receive offers to join?
A Taliban.
Q Did you accept that offer?
A No.
Q Why not?
A Salim offered to take me to Saudi Arabia to meet with his friends over there. He said I could possibly work with them doing financial networking.
Q Was that -- did that ever come to fruition?
A No.
Q Did you conduct any operations during the time period of the December 2007 to March 2008?
A No.
Q That takes to us March 2008. Can you tell the jury how you were able to get into al-Qaeda?
A I met a Kuwaiti called Zubair and he took me with him and I was with him for a couple of days and there was an old man called Haji Sabir from Tunisia. Later on I found out that Haji Sabir was the one who referenced me into al-Qaeda.
Q And where was al-Qaeda based?
A In Waziristan.
Q Were you taken to a particular town when you joined with al-Qaeda?
A Yes.

Q Where was that?
A Outside the Mir Ali/Miranshah area.
Q Mir Ali/Miranshah, what is that?
A Those are two major towns in North Waziristan.
Q What is the first town?
A Mir Ali.
Q The second town?
A Miranshah.
Q Did al-Qaeda have a particular objective or goal?
A Yes.
Q What was that?
A To defeat the United States.
Q Who set that objective?
A Osama bin Laden.
Q Did al-Qaeda have an organizational structure?
A Yes.
Q And within that organizational structure were certain people ranked higher than others?
A Yes.
Q While you were with al-Qaeda, were there any rules that you had to follow?
A Yes.
Q What was a typical punishment if there was a rule that was broken?
A You might have to do extra security duty. You might have

to do extra pushups and get yelled at.
Q During your time with al-Qaeda was it important for you to know who the al-Qaeda leaders were and what their responsibilities were?
A Yes.
Q Why was that important?
A If you needed something to be done or you needed to ask somebody for something, you needed to know the right person to ask.
Q Who was the senior most person that you met in al-Qaeda?
A Hafid Sultan.
Q Did you meet Hafid Sultan face-to-face?
A Yes.
Q And did you know Hafid Sultan by any other names?
A Mustafa Abu Al-Yazid Al-Masri
Q Can you say that one more time?
A Mustafa Abu Al-Yazid Al-Masri..
Q What was his position within al-Qaeda?
A He was third in command.
Q Who was above Hafid Sultan within al-Qaeda's organizational structure?
A Osama bin Laden and Ayman al-Zawahiri.
Q If I could show the witness only what is marked for identification as Government Exhibit 17.
THE COURT: Yes.

Q Can you see the person depicted in Government Exhibit 17?
A Yes.
Q Do you recognize that person?
A Yes.
Q Who do you recognize it to be?
A Hafid Sultan.
MR. LOONAM: Your Honor, the government moves Exhibit 17 into evidence at this time.
MR. GOTTLIEB: No objection.
THE COURT: Received.
(So marked.)
Q Where did you meet happy /SUL tan?
A North Waziristan.
Q And why did you meet with Hafid Sultan?
A I needed permission to go to Peshawar. I wanted to wire some money through Western Union to any girlfriend in Cuba.
Q Now, did you have an understanding as to why you needed permission from someone so high ranking in al-Qaeda to receive permission to travel to Peshawar?
A There was a man called Abdul Saleeh, also known as Abdul Hafeez Abu Saleh al-Somali. He was interfering in my plans to try to go back to Peshawar to send money.
Q And this person you referred to as Abdul Saleeh and Abdul Hafeez?
A Yes.

Q How would you spell Abdul Hafeez' name?
A A-B-D-U-L - H-A-F-E-E-D-H..
Q Are there other ways to spell that name?
A Yes.
Q What are some of the other spellings for that name?
A It could end in I-Z or I-D-H.
Q Why are there multiple spellings for that name?
A That name is originally written in Arabic so if you use another alphabet it's always going to be a little off.
Q Have you heard that name pronounced in a different way?
A Yes.
Q How have you read it pronounced?
A And Abdul Hafeez.
Q And who have you heard pronounce the name Abdul Hafeez in that way?
A Mostly from non-Arabic speakers, Punjabis, Pashtuns and Turks.
Q And where are Pashtuns from?
A From Afghanistan, Pakistan.
Q Do you know if Abdul Hafeez held an important position within al-Qaeda?
A Yes.
Q What position did he hold?
A He was the emir for the International Operations Program.
Q As emir for the International Operations Program, what

was Abdul Hafeez' primary responsibility?

MR. GOTTLIEB: Your Honor, objection.

THE COURT: Sustained. Lay a foundation.

Let's break for lunch. Don't discuss the case. We'll resume at 2 o'clock. All rise.

(Jury leaves.)

MR. BITKOWER: Your Honor, before we break for lunch, I just wanted to address one matter on the record. We had talked last week about how to handle media requests for exhibits.

There has been media requests, substantial media interest in the deposition that was just played and there have been requests for both the transcript than the video recording of the deposition. We have made the transcript available.

It's our position and it's going to be our position that the video recording should be treated differently; that is, it is not a typical court exhibit in the nature of court exhibits. It is more an exhibit of the witness testifying.

It would be highly unusual to provide video recordings of a testifying witness to the media for multiple reasons, but predominantly in this case witness security reasons. We have been engaged in conversations with the British police about this matter in particular and they have informed us their fears that if the videotape of the actual testimony were to get out, it would pose a security risk for

Mr. Vinas, who is currently living in the United Kingdom.

We are prepared to give your Honor something in writing to address our position, if that would be helpful to the court, but our position will be that under the traditional First Amendment analysis this is not the type of exhibit which is normally available; in fact, it would be highly unusual for an exhibit of this type to be made available to the public and should it be made available it will likely be on, for example, YouTube within the hour.

Some of the video exhibits we made available last week are already on YouTube within a day of being provided. We are happy to provide your Honor something in writing to address our concerns, if you would like it.

THE COURT: You offered it and I have received it, which would make it highly unusual not to make it available. You better brief it pretty quickly.

MR. BITKOWER: Your Honor.

THE COURT: Is foundation the basis of that objection?

MR. GOTTLIEB: Yes. Your Honor.

THE COURT: See you at two.

(Luncheon recess.)

A F T E R N O O N S E S S I O N

THE COURT: Please be seated in the back.

(Jury is not present)

MR. LOONAM: Before we bring the witness out, we should address an issue briefly, if Your Honor will allow us to.

THE COURT: Yes.

MR. LOONAM: I know the defense has a continuing relevance objection to the calls for Wais Afzali between defendant and Wais Afzali and Najibullah Zazi and Wais Afzali. After this witness this afternoon the government intends on a calling a summary telephone witness to explain the telephone records that have been entered into the evidence. Between the defense and government we have reached an agreement to attribute the phone numbers to specific people which I think will aid the jury in understanding the records, but the one continuing objection is to the telephone records of Afzali. Those calls begin on the 11th and it shows a pattern of calls.

THE COURT: Could you hold them back there for just a minute, please, gentlemen (indicating Court Officer). We will come and get you in a second.

MR. LOONAM: It shows a pattern of calls from Wais Afzali Najibulla Zazi and then from the defendant to Wais Afzali and back and forth until the defendant and Zazi actually speak on the telephone.

THE COURT: This is on September 10th?

MR. LOONAM: September 11th and 12th, Your Honor and the government has already introduced a photo of the defendant with Wais Afzali and so, the government requests to put the phone records in.

THE COURT: What is the nature of the objection.

MS. CARVLIN: Your Honor, it is relevant. The government originally when they had offered the call between Ahmad Wais Afzali and Mr. Najibullah Zazi had said that they were proffering in part to demonstrate that was -- at that point that Mr. Zazi knew that he had been exposed, that the plot was up and therefore, he was leaving town. We argued at the time that was not correct. He already purchased a plane ticket. He already knew there was substantial evidence that supported our position that he knew well before he spoke with Ahmad Wais Afazi that the plot had been exposed. Therefore, I think the government's relevance argument is completely undermined by that.

Also, this creates some sort of aura of impropriety on the sort of Medunjanin's part, that somehow the FBI is showing photographs of him or law enforcement is showing photographs of him to law enforcement informants and asking his opinion about who these people are. What is the relevance of that compared to that potential for prejudice? We renew our application not to permit the government to introduce that phone call and also we also object to including those phone calls in the government's phone chart.

THE COURT: I'm a little uncertain as to precisely what in evidence demonstrates -- does it include a reference that Mr. Medunjanin's photograph was shown to Wais Afzali?

MR. LOONAM: No, Your Honor, the only way the government could potentially elicit that statement with respect to Medunjanin --

THE COURT: So the answer is no?

MR. LOONAM: The answer is, no, we don't intend to elicit that testimony if the defense doesn't intend to get into on cross-examination of Agent Azad when he testified to the defendant that he made to the FBI during the course of interviews. The relevance is with respect to knowledge that law enforcement had uncovered the plot.

What the defense refers to, it is primarily Najibullah Zazi's knowledge. Now, Najibullah Zazi had a conversation -- a very brief indication on a cell phone coded conversation that law enforcement was onto plot with the defendant when he saw them at the Abu Bakr Mosque but -- and there was testimony about that, but certainly the conversation between Ahmad Wais Afzali and the defendant in person would have confirmed that law enforcement was on to the plot for him. Moreover, the government intends to introduce --

THE COURT: Stop. One of the calls -- by the way, the photograph of them at the mosque, is that a surveillance photo?

MR. LOONAM: It was, Your Honor.

THE COURT: One of these phone calls goes from Afzali to Medunjanin.

MR. LOONAM: One of the phone calls is between Zazi and Medunjanin referencing the defendant was just with Wais Afzali and then the only thing we and continued to elicit with respect to the contact between Afzali, and the defendant, apart from what's in the recorded conversation I just referenced are the contacts between them. Sort of -- that appear in the toll records.

THE COURT: So you're not offering the photos, you're not offering evidence of whose photos were shown to Wais Afzali?

MR. LOONAM: We will discuss it with the defense.

THE COURT: I am asking what you are offering, do you intend to offer it?

MR. LOONAM: If the defense in intends to cross Agent Azad on those communication, then the government would look to do so on direct and elicit it on direct. If the defense wasn't doesn't want the government to get into those conversations, there's no need to get into those conversations.

THE COURT: What do you do intend to offer? Do you intend to -- separate and apart from what is responsive to a cross, do you intend to offer any testimony about whose photos were shown to Wais Afzali?

MR. LOONAM: No. We do intend to offer the phone call between Najibullau Zazi and the defendant that he was just with Wais Afzali but we do not intend and to call the detective, for example, who showed the photos or elicited that testimony, Your Honor.

THE COURT: All right. Anything further?

MS. CARVLIN: Again, I don't think the government has proffered how this is relevant, the contact between Ahmad Wais Afzali and Najibullah Zazi. The previous proffer was that it demonstrated the unravelling the plot. That is not correct.

THE COURT: No, that is relevant. You are right in that it is not the single linchpin to the frustration of the plot, and we since heard evidence about him being stopped at GW Bridge and all the other indicia that they were on the radar screen, but of course, it is relevant.

This is a plot to bomb the subways that was going to happen right during that timeframe, and especially given the statement that they don't intend to elicit -- I think take it from your application a minute ago that you think some prejudice in here in the suggestion that Adis Medunjanin was a suspect on September 11th.

MS. CRAVLIN: Yes.

THE COURT: Except to the extent that that might become evident from the fact that the phone call between Afzali and Najibullah Zazi -- I guess we should stop calling him Najibulla, it's Najibulla.

MR. LOONAM: Najib.

THE COURT: Najibulla. Except to the extent that that phone call that references your client and that I don't see any objection -- legitimate objection to that, suggests that he's on the government's radar screen, I don't really see that specter of prejudice in what the government tells me it is going to elicit.

Am I missing something?

MS. CARVLIN: Again, Your Honor, I don't see the relevance.

THE COURT: I see the relevance. To that extent, your objection is overruled, but the prejudice also makes, you also make a 403 application and you claim some prejudice but I don't really see how the evidence that Mr. Loonam says he's going to offer raises that specter of prejudice.

MS. CARVLIN: I understand, Your Honor.

THE COURT: All right. So your objection is overruled.

MR. BITKOWER: One additional matter, Your Honor. We have inserted into jurors' binders, as well as the Court's and everyone else's binders, two additional transcripts, one set for the call Mr. Loonam just referenced. We expect that will come into evidence later this afternoon. The third set for the 911 call, which we don't expect to come into evidence until close to the end of trial, and when we reach the next call I am sure Your Honor will instruct the jury. We will stick with the first.

THE COURT: I will tell the jurors.

All right. Bring in the jury, please.

(The following took place in the presence of the jury).

THE COURT: Please be seated, everyone.

MR. LOONAM: May I inquire, Your Honor?

THE COURT: Yes you may.

B R Y A N T V I N A S having been previously duly sworn/affirmed, resumed the stand and testified further as follows:

DIRECT EXAMINATION CONTINUED

BY MR. LOONAM:

Q You testified before the lunch break that Abdul Hafeez was the Amir of the international operations program?

Can you please explain to the Court what an amir is.

A Leader of a group.

Q And does Al-Qaeda have multiple amirs?

MR. GOTTLIEB: Objection, Your Honor.

THE COURT: Come up to side bar.

(Continued on next page)

MR. GOTTLIEB: Your Honor, this witness is hardly an expert in Al-Qaeda and Al-Qaeda operations. Up to this point I am not certain why I would object. I know you have to give certain leeway to give some context for his testimony but any questions in which they want him to present himself as an expert on Al-Qaeda, the operations and their structure I object.

THE COURT: Okay. Sounds like a foundation.

MR. GOTTLIEB: Yes.

MR. LOONAM: Concerning the foundation, Your Honor, I do believe that I did already elicit that this witness was a part of Al-Qaeda and knew Al-Qaeda had an organizational structure and which certain members were higher than others, there were rules that the persons associated with the Al-Qaeda had to follow and there were punishments if they broke the rules, what the typical punishments were and so with respect to the structure of Al-Qaeda and this defendant's position with Al-Qaeda. I also elicited whether it was important for him to know the particular positions of the Al-Qaeda leaders, he would then need to know who go to you if he needed to get something or asking for something which was demonstrated by his appeal to Hafid Sultan supreme leader in Al-Qaeda so simply asked whether Al-Qaeda had multiple amirs is one of the foundational elements that I will need to establish later on.

THE COURT: He might have learned it from you yesterday, which would make it inadmissible.

MR. LOONAM: Understood.

THE COURT: So you have to establish how he learned it, and make it admissible testimony. If he learned it from someone else and it is not a coconspirator's statement with respect to defendant, I am not prepared to rule right now that anything said by anybody who want to be witnesses allocates to Al-Qaeda is a coconspirator statement. You have a foundational problem. Will loop.

MR. LOONAM: Understood. I will lay more foundation.

(End of side-bar)

(Continued on next page)

(The following took place in open court)

BY MR. LOONAM:

Q So you personally met Abdul Hafeez, correct?

A Yes.

Q And did you learn what country Abdul Hafeez was from?

A Yes.

Q How did you learn what country Abdul Hafeez was from?

A Usually at the end of a name somebody will mention what country they are from. His last part of his name was al Somali, so that's how I learned he was Somalian.

Q And can you describe for the Court what Abdul Hafeez looked like?

A Tall, about six three, black, ordinary glasses, skinny, about mid 40's.

Q While you were with Al-Qaeda did you meet any other Abdul Hafeezes?

A No.

Q Have you ever heard of any other Abdul Hafeezes in Al-Qaeda?

A No.

Q You mentioned that Abdul Hafeez had stopped you from travelling to Peshawar to send money to your girlfriend in Cuba, correct?

A Yes.

Q When you discussed this seeking of permission did you

refer to this woman as your girlfriend or your wife?
A I call her my wife.
Q And was that true?
A No.
Q Why did you refer to her as your wife?
A You not allowed to have girlfriends in Islam so I could have got in trouble.
Q Now, your girlfriend in Cuba, did you send her updates with respect to your status in Al-Qaeda that were not accurate?
A Yes.
Q What did you tell her?
A I pretended to be somebody else delivering a message on my behalf saying that I was arrested by the Pakistan army.
Q And was that true?
A No.
Q Why did you do that?
A To discourage her from stop sending me e-mails.
Q And did you eventually receive permission to travel to Peshawar?
A Yes.
Q And who granted you that permission?
A Hafid Sultan
Q What name did you use when you were with Al-Qaeda?
A Basheer Alam Rika, Benyameen, Al Canadi.

Q And why did you change your name?
A I was recommended to change my name for security reasons.
Q Who recommend that you change your name?
A The Bilal Nedeni.
Q And was Bilal Nedeni with Al-Qaeda?
A Yes.
Q All right. Going back to senior Al-Qaeda leaders that you personally met while were you in Wazirstin. You testified that you met Hafid Sultan and Abdul Hafeez ,what other Al-Qaeda leaders did you meet personally?
A Mahmood, Itisatulah, Al-Libi.

THE COURT: Say it one more time, the names, one more time and then try to steal it even if it's just phonetic.

THE WITNESS: M-A-H-M-O-O-D. I-T-I-S-A-T-U-L-A-H AL hyphen L-I-B-I.

Q And who were some of the other senior Al-Qaeda leaders that you personally met?
A Abdullah Saeed. Saeed is S-A-E-E-D. Abu Y-A-H-I-Y-A, Nasrulah N-A-S-R-U-L-A-H.
Q Let's discuss some of your activities while you were with Al-Qaeda. Did you receive any training while you were with Al-Qaeda?
A Yes.
Q How much time passed from when you joined with Al-Qaeda until you began your training?

A Less than a week.
Q And what type of training did you receive?
A A basic training course that took explosives theory course, and projectile weapons theory course.
Q Let's take those one at a time. How long was your training in the basic course?
A About two weeks.
Q What type of building, if any, was the basic training given in?
A In a mud house.
Q And where was this mud house located?
A In Miser North Waziristan.
Q Is that in Pakistan?
A Yes.
Q How big was the mud house?
A Big enough to accommodate about 20 people.
Q And when you say, "mud house," can you describe for the members of the jury what you mean?
A The walls are made out of mud, there's no carpet, there's no wood floors. Just mud. It is dry mud. The roof is made out of tree branches.
Q Were there any monkey bars at this training facility?
A No.
Q Was there an obstacle course at this training facility?
A No.

Q Have you ever heard in videos or anywhere else that Al-Qaeda had training facilities with monkey bars and obstacle courses?
A Yes.
Q Now, based on conversations you had with members of Al-Qaeda in Wizerstan, did you have an understanding what happened to those facilities?
A Those facilities were in Afghanistan when Al-Qaeda was a guest of the Taliban government. Once they moved into Pakistan all those basis -- all those training camps were left behind in Afghanistan.
Q Did you ever see a training facility with obstacle about courses and monkey bars during your time in Pakistan?
A No.
Q How many people were in the basic class with you?
A About 20.
Q Was there an instructor?
A Yes.
Q And can you describe how the instructor would, you know, give the class to the members of the jury?
A We would have a teacher who would have a dry erase board and he would either write on the dry erase board or have a volunteer write on the dry erase board certain subjects that we had to learn, and the rest of the students had no books, we would take down the notes on the different aspects of the

subject.
Q And did you take notes?
A Yes.
Q And what language were the classes offered in?
A Arabic.
Q Did you speak Arabic at the time?
A No.
Q And how did you understand the class?
A I had someone who could translate into English next to me during the class.
Q And can you generally describe the training you received during the two-week basic course?
A We went over basic Soviet weapons, AK 47, the PK machine gun, RPG 7, the different Soviet pistols, grenades. We went over different types of the explosive material. Little bit on the electric circuiting, GPS. Is icom radios, little bit on navigation with a compass.
Q Can you describe the training you received in the AK47?
A We learned the history of the rifle, we learned how to field strip it, learning how to clean it correctly, how to reassemble it correctly. Different types of rounds that you can use, different firing positions to shoot weapon.
Q What were the firing positions that you learned for AK47?
A Standing, kneeling, and lying down.
Q What about the PK machine gun, what did you learn with

respect to the PK machine gun?
A Same thing as AK47, how -- we learned the history of it, how to field strip it, how to clean it correctly, how to reassemble it, the different firing positions.
Q And how about the RPG?
A Same thing except you don't field strip it; you just learn how to clean it correctly.
Q Now, did you get to fire those weapons?
A Yes.
Q And when did you get to fire those weapons?
A On the last day.
Q And how many rounds did you get to fire of AK47?
A About 30.
Q How many rounds are in a magazine for an AK47?
A Thirty rounds on standard clip.
Q So you got to fire one magazine; is that correct?
A Yes.
Q How many rounds did you get to fire of the PK machine gun?
A About 20.
Q Did you get to fire any additional weapons?
A Yes.
Q What other weapons did you get to fire?
A Sakharov pistol, that's a Soviet pistol, and I threw a grenade.

Q How many rounds did you get to fire from the pistol?
A Six.
Q How many rounds are in a clip for the pistol that you fired?
A Eight.
Q And you say you got to throw a grenade?
A Yes.
Q So you got to fire the AK47, PK machine gun, a pistol and you threw a grenade. Are there any additional weapons that got to fire during your training at -- during the basic course?
A That's it.
Q Did any of the other students get to fire any additional weapons?
A Yes.
Q What additional weapons did other students get to fire?
A Some were able to shoot RPG 7s and Kennedy 2 Rocket.
Q Now, during this basic instruction class was there any discussion of suicide bombing vests?
A Yes.
Q All right. What was the discussion of suicide bombing vests during the course of this basic instruction?
A They went over a little bit on the cortex of explosives that you could use to wire the suicide bombing vests.
They touched a little bit on the electronic

circuiting on.

Q How long was that discussion?

A Less than a day.

Q And was there any discussion of suicide bombing operations during the basic instruction class?

A Yes.

Q Please tell us about that.

A One day Sheikh Nasrullah came to visit the class. He gave a small talk to the whole class where he said if you want to volunteer for a martyrdom operation, that you could sign up for it, but you must have patience because that's the number one thing that they're going look at when they select somebody for a martyrdom operation. He explained that the martyrdom operation in East Africa took about nine months to pull off.

Q All right. When Sheikh Natula discussed the martyrdom operations or suicide bombing operations in East Africa, what was he discussing?

A Embassy bombings in Kenya and Tanzania.

Q Can you describe for the Court a typical day during the basic training class that you attended with Al-Qaeda?

A You would wake up for morning prayer. Then after morning prayer you would do Koran recitation in groups. After that there would be morning exercise. After morning exercise it would be breakfast. After breakfast you would have first lesson of the day. That would go all the way up until the early afternoon prayer. After that you would be able to continue classes up in the late afternoon prayer, and then after that you would have some free time up until the sunset prayer. After that you would eat dinner and after dinner there would be some down time and then security watch duty rotations would start, and then you would start all over the next day.

Q And what time would you wake up for mornings prayer?

A Just before sunrise.

Q And who would prepare breakfast and dinner?

A We would rotate. Different kitchen duty groups.

Q Who would clean up the dishes from the breakfast, and the dinner duty?

A The group would do kitchen duty.

Q All right. During free time were students allowed to take naps?

A You could.

Q Next class you told us that you took was the explosive theory class, correct?

A Yes.

Q And where did that training take place?

A Miser North Waziristan.

Q What type of building did that type of training take place in?

A In a big mud house.

Q And how long was this explosive theory class?
A About two weeks long.
Q Was a class also taught in Arabic?
A Yes.
Q And how did you understand the instruction of that class?
A I had someone who could translate into English for me.
Q And could you briefly describe for the Court the training you received in the basic explosives class?
A We went into more detail on different types of explosive materials. We went over different types of fuses, a little bit and electronic circuiting, how to assemble some of the components for suicide bombing vests. That's it.
Q What different types of explosives did you learn about during your explosives theory class?
A Gun powder, TNT 3, C 3, C 4., cortex, centex. We touched on hydrogen peroxide bombs, RDX. We didn't have those available to actually see it, but it was mentioned.
Q What was mentioned about hydrogen peroxide bombs?
A Teacher explained if you wanted to learn more about it there were other classes available that you could take to learn about it.
Q And you testified that there was some instruction on suicide vests during the course of this class, correct?
A Yes.
Q And now could you please describe that for the Court.

A There was a hands on exercise where the teacher picked out volunteers to -- what they would do is they had three rectangular trays that you would line with plastic into and two of them you would line with plastic explosive and then the last tray you would line with ball bearings and cover it with glue, and when the glue hardened you can take all those components and make a sandwich out of them and then you can insert that sandwich into the -- into a section of the suicide bombing vest.

Q And what did you do during the course of this practical exercise?

A I was chosen to line one of the trays with plastic explosives.

Q And what is the purpose of the ball bearings disk that you described?

A It would be shrapnel.

Q Now, did Al-Qaeda -- this class, did you actually explode anything during the course of this class?

A No. Well, excuse me. Yes. We exploded one blasting cap and that's it.

Q And how large was the explosion from the blasting cap?

A It is about the same size of a pen cap. It didn't even -- it barely lifted some of the dirt up on the ground.

Q And what was the purpose of the blasting cap?

A That is the first part of the bottom that explodes. It triggers the main plastic explosive that you try to use.

(Continued on next page)

EXAMINATION CONTINUED BY MR. LOONAM:

Q You also testified that you took a projectile weapons class, correct?

A Yes.

Q What did you learn -- first, where the projectile weapons class take place?

A In North Waziristan.

Q In what type of building did it take place in?

A It was a mud house, but it was a bigger compound.

Q When you say it was a bigger compound, can you describe that to the court?

A It was more space to walk around in. It wasn't just a house you had to stay inside.

Q When you say a house that you had to stay inside, were there rules that you had to follow while you were part of this -- in this training program?

A Yes. You could not leave the compound or the house without permission.

Q Were you allowed to interact with locals while you were in the training compound?

A No.

Q What did you learn in the projectile weapons class?

A We learned how to set up different bases for borders and pockets so that you could fire long distances.

Q How long was the projectile weapons class?

A About a week and a half.
Q Again, was this taught in Arabic?
A Yes.
Q Did most of the al-Qaeda fighters that you met in Waziristan take the same three courses as you when they were going to stay in Afghanistan and Pakistan?
A Yes.
Q During your time with al-Qaeda did you ever learn whether or not al-Qaeda had any type of media operation?
A Yes.
Q What was that?
A Al Sahab media.
Q What is Al Sahab?
A They make al-Qaeda videos to be posted on the Internet.
Q Had you ever seen any of these al-Qaeda videos before you traveled to Pakistan?
A Before I traveled?
Q Yes.
A Yes.
Q And how did you obtain those videos?
A You could see it on the Internet.
Q And did you watch any of these Al Sahab videos while you were with al-Qaeda?
A Yes.
Q Where did you watch those videos?

A In Lwara.
Q How did you watch those videos?
A On the laptop.
Q Did you conduct any operations while you were with al-Qaeda?
A Yes.
Q Where did you conduct those operations?
A Lwara, L-W-A-R-A, Pakistan.
Q Can you indicate on Government Exhibit 301 in evidence approximately where Lwara is, for the members of the jury?
A Yes.
Q There are two markings there.
A The bigger one.
Q Is it on the border?
A Yes.
Q Was it your decision to travel to that area or were you given orders?
A I was given orders.
Q Who gave you orders?
A Abdullah Said al-Libi.
Q Who was Abdullah Said al-Libi?
A He was the military commander for the Pakistan-Afghan region.
Q After you completed your training was Lwara your first choice of where you wanted to fight?

A No.
Q Where else did you want to fight?
A In Kunar Province or Helmet Province.
Q Let's focus on Helmet Province. What type of fighting did you expect to do in Helmet Province?
A Close combat.
Q When you say close combat, can you please describe that for the court?
A Mostly fighting with your AK-47 against U.S. coalition forces or Afghan army.
Q If you had an opportunity to fight in Helmet did you expect to kill U.S. soldiers?
A Yes.
Q Now, did you expect to use your explosives training to fight in Helmet Province?
A No.
Q Sorry?
A No.
Q Did you expect to use your projectile weapons training to fight in Helmet Province?
A No, sir..
Q What part of your training did you expect to use to fight in Helmet Province?
A Training that I received in the basic course.
Q And how long did that training take?

A About two weeks.
Q Did you get an opportunity to fight in Helmet Province?
A No.
Q You just testified that you were deployed to Lwara, correct?
A Yes.
Q Once you traveled to Lwara, were you under any -- whose command were you under at that point, if anyone's?
A Sheikh Abu YaYa al-libi.
Q Who is Sheikh Abu YaYa al-Libi?
A He was an al-Qaeda emir of the Lwara Province. Excuse me. Of Lwara, it's not a province.
Q When you said he was an al-Qaeda emir, what were his responsibilities as an emir?
A He was in charge of the Abu Laith Group. That's the group that fights based in Lwara, Pakistan.
Q And showing the witness Government Exhibit 18 for identification. Do you recognize the person depicted in Government Exhibit 18?
A Yes.
Q And who do you recognize that to be?
A Abu YaYa.
MR. LOONAM: I move 18 into evidence.
THE COURT: Any objection?
MR. GOTTLIEB: May I have one moment, your Honor?

THE COURT: Yes.

(Pause.)

MR. GOTTLIEB: Objection.

May we have a sidebar?

THE COURT: Yes, come on up, please.

(Continued next page.)

(Sidebar.)

THE COURT: Yes.

MR. GOTTLIEB: Your Honor, the objection is based on relevance. I do not know what connection this fellow has; what the picture has. You'll see there is writing on the photograph.

Objection. Relevance.

THE COURT: Yes.

MR. LOONAM: This is who he is under the command of. He conducted attacks under this individual. The videos that we already have in evidence feature this individual as a member of al-Qaeda. It corroborates both that the videos were al-Qaeda videos as well as this witness was in al-Qaeda.

THE COURT: Does it link up to the defendant and his coconspirators' crime in any way?

MR. LOONAM: Yes.

What it will link up is while this witness is in Lwara, he has conversations with members of Abdul Hafeez' group who are directly under his supervision, the external operations group with al-Qaeda about conducting attacks outside of the United States, including attacks that have already been mentioned here, such as potential attacks on Wal-Mart and the New York City Transit System.

THE COURT: Let's get to that. What does this piece have to do with it?

MR. LOONAM: It's just explaining the structure of al-Qaeda, who he was under the command of.

And it, again, this individual was featured in the video that we already have introduced into evidence. So it is to explain who this person is.

THE COURT: Sustained.

(Continued next page.)

(Open court.)

BY MR. LOONAM:

Q Did you conduct any operations while you were in Lwara?

A Yes.

Q What type of operation did al-Qaeda conduct from Lwara?

A Projectile weapons.

Q And did you take part in a projectile weapons operation?

A Yes.

Q And can you describe the operation that you took part in?

A Yes. I was part of a group that was to launch Hawk 20 rockets from Pakistan across into Afghanistan at a U.S. base.

The first time that I went, our spotter was not answering his radio so we couldn't launch any that day. But we went back a second day and we were able to launch four rockets.

Q When you say your spotter wasn't available, can you explain to the court the significance of a spotter.

A Our group was targeting a nonvisible target so you needed someone close by to tell you whether you hit the target and if you didn't how to readjust for the next launch.

Q And how long was your training in projectile weapons?

A About a week and a half.

Q And when you conducted -- did you eventually learn whether your attack had been successful in attacking a U.S. base?

A All four rockets missed.
Q You previously mentioned that you met Abdul Hafeez, correct?
A Yes.
Q Did you meet him face-to-face?
A Yes.
Q Where did that meeting occur?
A In Dagon, North Waziristan.
Q And did you speak to Abdul Hafeez and did he speak to you?
A Yes.
Q Which language did you use to communicate with Abdul Hafeez?
A English.
Q Can you describe the interactions you had with him?
A First time I just shook his hands and greeted him and I kept ongoing. A little while later he called me over to him and he asked me what was my reason for going to Peshawar.

I explained to him that I had need to send money to Cuba through Western Union. He told me that it was better off having somebody go in my place and send the money.

At first I agreed but then later I changed my mind. Then later on, when dinner was being served, he was next to me when I was trying to eat the dinner. I was just dipping the bread into the gravy and I wasn't eating the meat chunks and

he was trying to convince me to eat the food and I didn't want to because I was recovering from a stomach problem.
Q You testified that Abdul Hafeez is the emir of the International Operations Program. Did you know anyone who was directly under Abdul Hafeez' supervision?
A Yes.
Q Who?
A Abdul-Salaam Maghribi, Abu al-Abidayn and Abu Hafs Filisteeni
Q How did you know that they were under Abdul Hafeez' supervision?
A They told me so.
Q And based on your conversations with these individuals, did you learn whether or not Abdul Hafeez had his own training courses?
A Yes.
Q Did he?
A Yes.
Q And did you ever meet any of the trainers who worked with Abdul Hafeez' training program?
A No.
Q Were you aware of all of the training courses that Abdul Hafeez' offered?
A No.
MR. GOTTLIEB: Objection.

THE COURT: Excuse me?

MR. GOTTLIEB: No objection.

THE COURT: That's what I thought I heard.

Q Now, did you yourself ever come up with any ideas for attacks outside of the Afghanistan-Pakistan region?

A Yes.

Q What were some of the ideas that you came up with?

A I wanted to tell these brothers that there was a good target in attacking the Long Island Railroad.

The first plan that I talked to seriously with somebody was having somebody drop off a suitcase full of explosives inside the Long Island Railroad. They would leave at a certain train station and leave the suitcase on the train and while the train kept on going, eventually it would explode.

Q In addition to the Long Island Railroad, did you discuss any other potential targets with members of al-Qaeda who were directly under Abdul Hafeez' supervision?

A Yes.

Q What other targets did you discuss?

A I mentioned to attack Wal-Mart would be a good idea.

Q Now, did you ever discuss these ideas directly with Abdul Hafeez?

A No.

Q Why not?

A I did not like him.
Q Why didn't you like him?
A He interfered with my plans to go take care of a personal matter in Peshawar.
Q Did you ever discuss the idea to attack Wal-Mart with people who were under Abdul Hafeez' supervision?
A Yes.
Q Who?
A Abdul Salaam.
Q What were the idea to attack Wal-Mart?
A You could do a bombing inside of Wal-Mart. You could hide a bomb inside a product that you would return, preferably a TV, and obviously you would get out of the store and then eventually the bomb would explode.
Q And why did you think that attacking Wal-Mart was a good idea?
A It would cause a very big economic hit. Wal-Mart is the largest retail store in the country.
Q Let's focus on the Long Island Railroad plot that you described. Did you ever discuss this idea with anyone affiliated with Abdul Hafeez?
A Yes.
Q Who did you discuss it with?
A Abdul Salaam.
Q When do you think is the first time that you discussed

attacking the Long Island Railroad with Abdul Salaam?
A Summer of '08.
Q Can you ever have more detailed discussions about a potential attack on the Long Island Railroad?
A Yes.
Q And did Abdul Salaam participate in these discussions?
A Yes.
Q Who else participated in these discussions?
A Younis al-Mauritani.
Q Who is Younis al-Mauritani?
A He was first offered the position of the International Operations Program before Abdul Hafeez.
Q And how did you learn that?
A Abdul Salaam told me.
Q Where did the discussion take place about the more detailed planning for the Long Island Railroad plot?
A In Lwara.
Q Can you tell the jury about the discussions you had about this plot.
MR. GOTTLIEB: Your Honor, objection.
THE COURT: Come up.
(Sidebar.)
(Continued next page.)
THE COURT: Yes.
MR. GOTTLIEB: Objection is based on relevance.

THE COURT: Let me hear the connection.

MR. LOONAM: First, he pleaded guilty to this. I assume it will be part of cross-examination.

Secondly, he's discussing the details and ideas for how to attack New York mass transit, which includes the types of operatives he would use; it includes how the bombing could be carried out.

It's highly relevant that this information is going to one of the al-Qaeda fighters that is directly under Abdul Hafeez' supervision as part of the External Operations Program.

This is the very program that this defendant was part of and it was his emir, Abdul Hafeez, who sent him on this mission to bomb the New York railroad. The timing for these discussions is also highly relevant.

This is in 2008, in the summer/early fall of 2008, exactly when this defendant was in Waziristan region. So it's highly probative of what their knowledge was of attacking the United States during this time period.

MR. GOTTLIEB: Well, your Honor, first, we heard it was this witness' idea to go to al-Qaeda. Apparently this came from Bryant Vinas, this creative plan to bomb the Long Island Railroad.

So now we're going the other way. It's not like it's generated, and the chronology is important for the jury to understand in connection with the issues in this case. This guy comes up with this idea of bombing the Long Island Railroad. There is no connection to Adis Medunjanin. This is just his own warped sense of how he can reek this destruction. There is no relevance to the issues in this case.

THE COURT: Is this the same Hafeez about whom the two accomplices testified?

MR. LOONAM: Absolutely. The same Hafeez who is the emir of the International Operations Program. Abdul Salaam also informed him that Younis al-Mauritani, who he's briefing on this plan together with Abdul Hafeez' subordinate, Abdul Salaam, was in direct communication with Osama bin Laden. We're not talking about conspiracy of all of al-Qaeda.

MR. GOTTLIEB: The only thing is, the conversation is had not with Hafeez. Apparently he's having it with some other guy.

THE COURT: Understood. Overruled.

(Continued next page.)

(Open court.)

THE COURT: Thanks for your patience.

MR. LOONAM: Can you please read the question back.

THE COURT: No. If you can't remember what it was, it wasn't worth asking in the first place.

Q Can you please tell us about the discussions you had with Younis al-Maurtani and Abdul Salaam?

A Yes. Abdul Salaam recommended I give this idea of mine to Younis. He acted as my translator. I told him everything that I knew about the Long Island Railroad. I answered any questions that he had about it.

I drew a map of Long Island and I explained to him that all the trains, all the train tracks going into Manhattan merged into one tunnel, and he felt that the best attack plan would be to have a martyrdom operation conducted while the train was still inside the tunnel to damage the tunnel.

Q When you say martyrdom operation what are you referring to?

A Suicide bombing.

Q And why conduct the attack while the train is in the tunnel?

A If the tunnel is damaged it would cause a very big economic hit to New York.

Q In addition to causing an economic hit, when you were discussing this plan with Abdul Salaam and Younis

al-Mauritani, were you aware this attack would cause a substantial number of human casualties?
A Yes.
Q Was that one of the goals of the attack?
A Yes.
Q Did you have any discussion with Abdul Salaam and Younis al-Mauritani about who the operative should be for such an attack?
A He said preferably it would be a white man from one of the Western countries, with Western documents; either from European Union, England, Canada, Australia or the U.S.
Q When you said "Western documents" what were you referring to?
A Identification papers.
Q Now, based on your discussion with Younis al-Mauritani or Abdul Salaam, did either of them have authority to authorize an attack within the United States?
MR. GOTTLIEB: Objection.
THE COURT: Overruled.
A What's the question again?
Q Based on your conversations with Younis al-Mauritani or Abdul Salaam, did you have an understanding as to whether they had authority to authorize an attack in the United States?
A No. They had no authority.
Q Did you have discussions with Abdul Salaam about who did

have authority to authorize such an attack?
A Yes.
Q According to Abdul Salaam who did have authority to authorize such an attack against the United States?
A Sheikh Mahmoud Atiyatallah, Osama bin Ladin, Ayman al-Zawahiri, and Abdul Hafeez.
Q You testified earlier that there was a discussion of who the operatives should be to carry out an attack in the United States.
Do you remember specifically whether it was Younis al-Mauritani or Abdul Salaam, or both, who discussed that it should be a white man who carries out the attack?
A It was Younis' suggestion.
Q Now, how was the plan left to attack the Long Island Railroad?
A Excuse me?
Q Was there any final decision made whether to move forward with the plan?
A No, not when I was there anyway.
Q What was your role in the plot going to be?
A I just gave the information.
Q Were you going to return to the United States to conduct the attack?
A No.
Q What were you going to do?

A Younis said he was going to pitch the idea to Sheikh Mahmoud, and if he had permission to start his own group, which me, Abdul Salaam and Abu al-Abidayn would be part of, and I would be more as an advisor to him.
Q To your knowledge, was the Long Island Railroad plot ever approved?
A I don't know.
Q You testified that Abdul Salaam was under the supervision of Abdul Hafeez; correct?
A Yes.
Q Were you aware of whether Abdul Salaam conducted any operations against American forces in Afghanistan?
A Yes.
Q What type of operations did he conduct?
A He took part in some rocket attacks on U.S. base.
Q Was he able to conduct those attacks against American forces in Afghanistan while he was under Abdul Hafeez' supervision?
A Yes.
Q A time came when you were arrested, correct?
A Yes.
Q Where were you arrested?
A In Peshawar.
Q Why were you in Peshawar?
A The fighting season was over. I didn't want to be in the

tribal areas anymore. I had a friend living in Peshawar and I asked him if I could spend the winter there, and also to ask him if he could help me find a wife.

Q By the way, travel between Peshawar and the tribal areas, when you say the tribal areas, what are you referring to?

A The federally administered tribal areas.

Q I am going to put up Government Exhibit 301. Do the tribal areas appear on Government Exhibit 301?

A Yes.

Q Where do they appear?

A Here.

Q Is Waziristan within the tribal areas?

A Yes.

Q How are you able to move from Peshawar to the tribal areas?

A Through driving, either by cab or a flying coach.

Q When say a cab, what are you referring to?

A A taxi.

Q Like a taxi you hail in Peshawar?

A You pay a driver who rents his car out to drive you where you need to go.

Q You mentioned a town Miran Shah. How do you get from Miran Shah back to Peshawar?

A Either through flying coach or through a taxi.

Q What is a flying coach?

A They call it a flying coach. It's a similar to an airport shuttle van.
Q Did you ever take a taxi between Peshawar and the tribal areas?
A Yes.
Q After you were arrested in Peshawar by Pakistani authorities, did you commit any crimes while you were in Pakistani custody?
A Yes.
Q What did you do?
A I tried to stab a Pakistani police lieutenant with a pipe cleaner.
Q And after you were arrested you were transferred to the custody of the FBI, correct?
A Yes.
Q Now, while you were in Pakistan, or while you were in the United States, did you ever have occasion to meet or communicate with someone by the name of Nazi Najibullah Zazi?
A No.
Q And either in Pakistan or in the United States did you ever have occasion to meet or communicate with someone by the name of Zarein Ahmedzay?
A No.
Q Same question for Adis Medunjanin?
A No.

Q And the same question for Zakir Khan?
A No.
Q I'm going to show you photographs in evidence. Did you ever meet the person in Government Exhibit 1?
A No, I never met him.
Q Government Exhibit 2?
A No.
Q Government Exhibit 3?
A No.
Q Government Exhibit 6?
A No.
Q Government Exhibit 7?
A No.
Q Government Exhibit 8?
A No.
Q Once you were in FBI custody did you speak to the federal agents?
A Yes.
Q Did you tell them the whole truth at first?
A No.
Q Were you flown back to the United States?
A Yes.
Q And once back in the United States did you continue to meet with FBI agents and prosecutors?
A Yes.

Q Did you continue to provide information?
A Yes.
Q Now, in the beginning of those meetings you agreed to discuss all subjects?
A In the beginning, no, sir.
Q What subjects did you agree to discuss?
A The Long Island Railroad, some people that I met, some places I had been at.
Q And did a time come when you agreed to cooperate fully?
A Yes.
Q And eventually did you plead guilty pursuant to a cooperation agreement?
A Yes.
Q Approximately how many times did you meet with the government before you were offered a cooperation agreement?
A A lot.
Q Dozens of times?
A Yes, maybe even more.
Q And can you tell the jury what happened in those meetings?
A I answered all their questions. I identified photos. I went over some maps with them. I explained to them how different training camps are, all the places I had been to, people that I met.
Q Did you identify places on those maps?

A Yes.
Q Before you were offered a cooperation agreement, what topics did you have to talk about?
A Any topics the government asked me.
Q Did you get to choose what topics to talk about?
A No.
Q Did you ever talk about all of the past crimes that you've committed?
A Yes.
Q And did those include crimes that you had not pleaded guilty to or were not going to plead guilty to?
A Excuse me?
Q It included everything?
A Yes.
Q All right. So in approximately for a week in 2003 or 2004, did you ever purchase or use steroids?
A Yes.
Q Tell the jury about that.
A I bought some steroid tablets. They were very disgusting. I stopped after a couple of days.
Q And did you travel to Cuba on two occasions?
A Yes.
Q Did you know that you weren't allowed to travel to Cuba as a U.S. citizen?
A Yes.

Q And did you ever provide false information in connection with receiving Workers' Compensation for an injured back?
A Yes.
Q Tell the jury what you did.
A I got hurt on the job with my back and when they asked me when did I get hurt, originally I lied to them, I told them I got hurt that one time but really I hurt my back before.
Q And did you ever fail to pay taxes in connection with the employment that you discussed earlier?
A Yes.
Q Did that include being a truck driver and warehouse worker?
A No, working in the car wash.
Q And you told us about your training with Shah Sahb's Group, correct?
A Yes.
Q In addition, in connection with the Long Island Railroad plot, did you ever establish communications facilities?
A Yes.
Q What did you do?
A I spoke with Abdul Salaam, in case Younis was to get the job where we would work for him, that he could contact me through e-mail. I would set up certain e-mail accounts in Peshawar and I would go regularly to the Internet cafe to check up on them.

Q In addition to -- going through your past crimes, did you have discussions with Abdul Salaam about Abdul Hafeez' primary responsibility as emir of the International Operations Program?
A Yes.
Q And what did Abdul Salaam tell you about Abdul Hafeez' primary responsibility as emir of the International Operations Program?
A Set up attacks in the West.
Q Now, did a time come when you pleaded guilty?
A Yes.
Q And again, quickly describe the three crimes that you pleaded guilty to.
A Conspiracy to murder, providing material support to a terrorist organization, receiving training from a terrorist organization.
Q What is the maximum sentence that you face as a result of pleading guilty to those crimes?
A Life.
Q What is the minimum sentence that you face?
A Ten years.
Q Are you familiar with the sentencing guidelines?
A Yes.
Q Very generally, what are the sentencing guidelines?
A It's a graph that a judge can use to determine what type

of sentencing I can get.
Q What are your sentencing guidelines?
A Life.
Q And when you pleaded guilty did you enter into a cooperation agreement?
A Yes.
Q Just the witness, your Honor.

Showing you Government Exhibit 37. Moving to the last page of Government Exhibit 37. Do you recognize this document?
A Yes.
Q What do you recognize it to be?
A My plea agreement.

MR. LOONAM: The government offers Government Exhibit 317, your Honor.

MR. GOTTLIEB: No objection.

THE COURT: Received.

(So marked.)
Q What are your obligations under your plea agreement?
A To speak the truth when asked, to testify on behalf of the government, to meet with the government whenever they ask, and not to commit any more crimes.
Q When you entered into the cooperation agreement, did you have a lawyer to help you understand it?
A Yes.

Q And as part of your cooperation agreement, did you meet with the government after you pleaded guilty?
A Yes.
Q Approximately how many times do you think you met with the government after you pleaded guilty?
A Many times.
Q And what happened at those meetings?
A I continued cooperating, identifying photos, answering the questions as best I could.
Q Now, in addition to meeting with the United States government, as part of your cooperation have you met with foreign government's?
A Yes.
Q Without providing the names of the countries that you have met with, how many foreign governments have you provided information to?
A Eight.
Q Now, if you fulfil your obligations under the cooperation agreement, tell the truth, testify, meet with the government, don't commit any more crimes, what does the government have to do for you?
A They will present to my judge a 5K1 letter and he will use that at my sentencing.
Q And what goes into that 5K1 letter?
A Everything about me, the good and the bad.

Q What does the judge do with that letter?
A He could take into consideration everything in that letter to determine what type of sentence he can give me.
Q And if you get a 5K letter, what can the judge sentence you to?
A Life all the way down to time served.
Q And have you been sentenced yet?
A No.
Q Has anyone told you what your sentence will be?
A No.
Q Who will decide what your sentence will be?
A My judge.
Q Now, if the judge wants to give you life he can?
A Yes.
Q And what is your expectation of what would happen to you if you lie to any question the defense counsel would ask or any question I've asked?
A It will cancel my plea agreement.
Q And what do you think that would mean for you?
A I would most likely get life.

MR. LOONAM: One moment, your Honor.

(Pause.)

Q Just to back up. One point of clarification, your Honor, a term.

Can you just tell the court briefly what field

stripping a weapon is?
A Just disassembling it correctly.
Q When did you learn how to disassemble a weapon.
A When I was in Pakistan.
Q As part of which class?
A I learned how to field strip an AK-47 with Shah Sahb's Group.
Q Did you also learn that as part of your al-Qaeda training?
A Yes.
Q And at which course in the al-Qaeda training?
A The basic course.

MR. LOONAM: No further questions, your Honor.

THE COURT: Thank you, Mr. Loonam.

What's your presence, you want to get started or take a break first?

MR. GOTTLIEB: Whatever you want to do, Judge.

THE COURT: Let's take a ten-minute break. Don't discuss the case. All rise.

(Jury leaves.)

(Continued next page)

(In open court.)

(Judge JOHN GLEESON enters the courtroom at 3:32 p.m.)

THE COURTROOM DEPUTY: All rise.

THE COURT: Mr. Vinas.

You can be seated in the back, if you'd like.

(Witness enters and takes stand.)

THE COURT: Are you ready, Mr. Gottlieb?

MR. GOTTLIEB: Yes, Your Honor.

THE COURT: All right bring in the jury.

(Pause in the proceedings.)

(Continued on following page.)

(In open court.)

THE COURTROOM DEPUTY: All rise.

(Jury enters at 3:34 p.m.)

THE COURT: Please be seated everyone.

Mr. Gottlieb?

MR. GOTTLIEB: Thank you.

CROSS-EXAMINATION

BY MR. GOTTLIEB:

Q Vinas, you have spent a life getting into trouble and committing crimes; right?

A Okay.

Q How old are you now?

A I'm 29.

Q How old were you when you decided to pack up and go and find Al-Qaeda?

A I joined Al-Qaeda when I was 25.

Q When did you leave the country?

A I was 24 when I left the country.

Q And you grew up on Long Island; correct?

A Yes.

Q Having grown up on Long Island, you got in quite a bit of trouble when you were younger; correct?

A Yes.

Q Your trouble starts when you're still living at home.

Was that in Port Jefferson? Or Medford?

A Medford, yeah.
Q Do you recall that time that you heard that your sister was dating somebody who was older than she was?
A Yes.
Q And that bothered you; didn't it?
A Yes.
Q And you went to your school counselor to talk to your counselor about what your sister was doing; right?
A Yes.
Q And your counselor said you should go home and speak to your mother; right?
A Yes.
Q And you did that; didn't you?
A Yes.
Q But it wasn't any ordinary conversation with your mom; was it?
A What was the question?
Q You got into quite a confrontation with your mom; didn't you?
A About the conversation my counselor told me?
Q Yes.
A Okay.
Q How old were you when you had this confrontation with your mom?
A 18.

Q And this confrontation that you had with your mom reached the point to where your mother had to call the Suffolk County Police Department on you; correct?
A Yes.
Q Your mother told the Suffolk County Police Department that you were threatening her; correct?
MR. LOONAM: Objection.
THE COURT: Come on up.
MR. LOONAM: Your Honor, I withdraw.
THE COURT: Don't come up, stay where you are. Keep going.
Q Your motor called the Suffolk County Police Department and reported that you were threatening her and the family; correct?
A Yes.
Q And the police come to the house; correct?
A Yes.
Q You're given just a few minutes to pack up and vacate your home; correct?
A Yes.
Q And as a result of that confrontation, you were actually given a court order ordering you to stay away from your family for one year; correct?
A Yes.
Q And you didn't see your mom for some five years after

that?
A It was 2006, yes.
Q Well, when you finally did see your mother, is it true that, in your heart, you told her that you forgave her?
A I said I wasn't angry anymore, sir. I never said anything about forgiveness.
Q In fact, didn't you tell the FBI agents who interviewed you in November of 2008, after your arrest, didn't you tell them that you explained that it was your belief that according to Islam you could not be forgiven by Allah unless you were willing to forgive your mother?
Didn't you testimony tell them that?
A Yes.
Q So, you found it in your heart to forgive your mother for what you did to her during that conversation; right?
A Excuse me, say the question again?
Q After that incident --
A Yes.
Q -- you were homeless, while living in Suffolk County; right?
A Yes.
Q You went bouncing around from friend to friend; correct?
A Yes.
Q You called your father, you got him to loan you some money to survive; correct?

A Yes.
Q So finally, after that, you took some time. You went to Cuba; correct?
A Yes.
Q Eventually, after that, you told us then you decided now to leave America.
And that was March of 2007; correct?
A September of '07.
Q When did you leave --
A September.
Q -- to go?
A September of '07.
Q And you decided to go, I'm sorry, in March of 2007; correct? That's when you made this decision to leave; correct?
A No, I, I decided to leave much earlier than that. I had ideas at first, but they would come and go. I think they became firm the summer of '07.
Q Now, you told us you had a large number of meetings with FBI agents, even before you signed this cooperation agreement; right?
A Yes.
Q And you numbered these meetings -- how many meetings before the cooperation agreement did you have with them?
A Many.

Q Many. How many is many?
A I'm sorry, I wasn't keeping count. It was, it was a lot.
Q When you say a lot, can you give us some approximate number?
A Four times a week, at most. Four.
Q Four times a week for how many weeks?
A Um, when I got arrested until I pleaded guilty.
Q So, how many weeks are we talking about?
A I need a calendar to count. I don't -- I can't count in my head like that. I don't want to give you a wrong number, sir.
Q You were arrested on what day, sir?
A I don't know the date I was arrested. All I know is after Election Day.
Q Of what year?
A Of '08.
Q And you had all these meetings with the FBI agents, whatever the number, and it's a big number; right?
A A lot, sir.
Q And then, after you signed the cooperation agreement, you had even more meetings with prosecutors to prepare for all your testimony; correct?
A Yes.
Q And when you had all these meetings, you told them everything you know about Al-Qaeda, about your trips to

Pakistan.

You shared all of that with them; right?

A Yes, sir.

Q And they asked you all those questions about your involvement; correct?

A Yes.

Q So, before you took the stand today, there is no question, is there, that the Government prosecutors knew that you had no connection, never met Adis Medunjanin and never spoke to him; correct?

A That's correct, I never met him.

Q You shared that with them before you testified today; correct?

A Yes.

Q And before you took the stand today, after all those meetings, is it fair to say that the prosecutors knew you had no contact, no knowledge, no conversations with Zazi or Zarein; correct?

A That's correct.

Q Now, the Government, they signed that contract, that cooperation agreement with you; correct?

A Yes.

Q And you understand that that agreement requires you to cooperate; correct?

A Yes.

Q It requires to you answer all of their questions in meetings; correct?
A Yes.
Q It requires you to testify if the Government wants you to testify; correct?
A Yes.
Q And your deal also had some benefits for you; correct?
A Yes.
Q Because in all these meetings, you told the FBI and the prosecutors about all of your crimes in your life; correct?
A Yes.
Q And in order for you to testify and plead guilty, you didn't do that until you had the Government sign that cooperation agreement; correct?
A Yes.
Q And in that cooperation agreement, the Government told you and promises you that they will not bring any criminal charges or prosecution for the purchases and using the illegal steroids; correct?
A Correct.
Q They said they're not going to prosecute you, charge you for the illegal trips to Cuba; correct?
A Correct.
Q The Government promised you in that contract, in that agreement, that they're not going to charge you for

falsifying, providing false information in connection with Workers' Comp. claims that you filed; correct?
A Correct.
Q The Government promised that they're not going to prosecute you -- you have protection, don't worry -- for failing to pay income taxes; correct?
A Yes.
Q The Government told you not to worry, they're not going to prosecute you for receiving military training from a militant group in Pakistan operated by Shah Sahab?
MR. LOONAM: Your Honor, could we have a brief side-bar?
THE COURT: No. Overruled.
(Pause in the proceedings.)
THE COURT: Do you have the question in mind or do you want him to frame it again?
THE WITNESS: Yeah, please, repeat it.
THE COURT: Please re-frame the question or repeat it.
Q The Government promised you in this agreement that they would not charge you or prosecute you for receiving military-style training from a militant group in Pakistan operated by Shah Sahab between approximately September 2007 and December 2007; correct?
A Correct.

Q The Government promised you, after you told hem everything you did, that they would not prosecute you or charge you for attempting to attack U.S. and Afghan military bases in approximately October 2007; correct?
A Correct.
Q The Government promised you that they would not prosecute you or charge you for receiving military-style training from a militant group operated by Salim in approximately December 2007; correct?
A Correct.
Q They told you, knowing everything that you have admitted doing when you were over there and firing at American forces, the Government promised you that they would not prosecute you for receiving military-style train from al-Queda?
MR. LOONAM: Objection, Your Honor. Please, can we have a side-bar?
THE COURT: Sustained as to form.
MR. GOTTLIEB: Your Honor, may I put this on the board? It's in evidence, the cooperation agreement.
THE COURT: Yes. You may.
(The above-referred to Exhibit was published to the jury.)
THE COURT: What is this? It's got a 3500 number?
MR. GOTTLIEB: I'm sorry, Judge. It is Government's Exhibit 317, the cooperation agreement.

THE COURT: Exhibit 317, okay.

MR. GOTTLIEB: Reading at paragraph four:

"The office and other offices within the Department of Justice agree" and continuing down in this paragraph --

THE COURT: When you're reading, don't speed up, please.

MR. GOTTLIEB: I'm sorry.

THE COURT: We're still taking it all down.

MR. GOTTLIEB: We were up to:

"Receiving military-style training From Al Qaeda between approximately March 2008 and August 2008, agreeing to act under the direction and control of Al-Qaeda between approximately" --

THE COURT: Slow down, slow down, so she can get it all down.

MR. GOTTLIEB: I apologize:

"March 2008 and November 2008."

Q That's in the agreement; correct?

A Correct.

Q It's in the agreement that they're not going to otherwise -- other than what you pled guilty to -- they're not going to add:

Attempting to attack a U.S. military base on the Afghanistan-Pakistan border in approximately September 2008;

Attacking a U.S. military base on the

Afghanistan-Pakistan border in approximately September 2008;

Plotting to attack the New York Transit system in approximately September 2008;

Establishing communications facilities for Al Qaeda operatives in approximately November 2008, and;

Assaulting Pakistani law enforcement officers on or about November 13, 2008.

That's the promise you received from our -- from the Government; correct?

A Correct.

Q Now, in addition to that, the Government's given you some money, also; right?

A Correct.

Q And they've given you this money after they learned about all the training you received; correct?

A Yes.

Q The Government agreed and has given you money after knowing how you participated in those attacks where rockets were actually launched at American servicemen and women; correct?

A Correct.

Q And when you participated in that attack, you knew that the objective in that attack was to kill Americans that you participated in; correct?

A Yes.

Q So, while you've been in jail for your crimes, how much money has the Government given you?
A About $80 a month.
Q And what that's to cover what?
A Food and hygiene products, stamps.
Q So, the Government's helping you send letters and brush your teeth.
A And food, sir.
Q And food. Well, in prison.
A Yes.
Q Now, all the questions we heard, and your answers, you went over that with the Government prosecutors before you took the witness stand; right?
A Yes.
Q So, you go to Pakistan in September of 2007 because you want to find some group to fight with; correct?
A Yes.
Q You then begin a search to find some group that will give you training; correct?
A Correct.
Q And is it fair to say that did not happen immediately; meaning, you didn't find that group where you actually received training as soon as you arrived; correct?
A Correct.
Q In fact, you were so interested in doing this, it took

quite a bit of effort and perseverance on your part; correct?
A Yes.
Q And in fact, even though you reached out to find the training, you determined that you were getting the runaround; right?
A Yes.
Q You spoke to a lot of people, searching for somebody who could get you into training; correct?
A Correct.
Q And it took at least a week-and-a-half after you arrived for you even to find somebody who could bring you to that first compound of Shah Sahab; correct?
A Correct.
Q So, your first ability after going there, after one and one-half weeks, you finally are brought to the compound of Shah Sahab where you meet a group of 30 fighters; correct?
A Correct.
Q So, when you arrived at this location, you weren't the only person there; were you?
A No, sir.
Q And when you arrived at this location and saw these other fighters there, you, yourself observed a storage room with lots of weapons; correct?
A Correct.
Q And lots of ammunition; correct?

A Correct.
Q And after you are there for at least a week, you learned that the group was preparing to attack the Afghan army in Kunar Province; correct?
A Correct.
Q So, you then travel with this group of fighters; correct?
A Correct.
Q You think your first action is you're going to actually get involved in a battle; correct?
A Yes.
Q So, you travel with them to the Pakistani border; correct?
A Yes.
Q And when you arrived at the Pakistani border, they don't even take you with them into the fight; do they?
A No.
Q In fact, you're not included in this first battle even though you made the trip; correct?
A Correct.
Q A few days later, these fighters return; correct?
A Later that night they came back.
Q So far, you haven't received any training; correct?
A Correct.
Q They told you something that maybe you would be part of a mortar tomorrow; correct?

A Correct.
Q But so far, you're not involved in any mortar tomorrow; right?
A Correct.
Q And, in fact, it was a few days that you were with them, even before they went out in on this operation; correct?
A Yes.
Q Now, you told us that after this first involvement with them, you then return with them to the base; right?
A Yes.
Q Still no training; right?
A Correct.
Q Now you're back there and I believe, correct me if I'm wrong, you said that's when, when the group returned from their mission, after a period of time, the third-in-command approached you and asked you, would you be a suicide bomber; correct?
A Yes.
Q And I believe you told us that you were considering that.
Why?
A I had a difficult time in the high altitude. I felt it would be easier to conduct it -- more than an operation.
Q So what, you were getting like?
A High-altitude sickness.
Q Like, if you go to Denver; you get high-altitude

sickness?
A I never been to Denver, sir.
Q So, you're getting a little high-altitude sickness. You decide, you know what? It will be easier to be a suicide bomber; correct?
A Yes.
Q Why fight in the fields if you can be a suicide bomber; correct?
A Yes.
Q In fact, when you were approached about being a suicide bomber, didn't you tell the Commandante, that's who asked you; right? The third person, the third guy in power there was the Commandante?
A Commandan.
Q Commandan, excuse me.
A Yeah.
Q You told him that him that you were ready because you were sickly with a bad back, you were suffering from perpetual diarrhea, and you were not able to easily move around the mountainous region of Mohmand Agency; correct?
A Yes.
Q So, now that you're given this opportunity to be a suicide bomber, you're also told at that time that it's not automatic that you're going to be a suicide bomber; right?
A Correct.

Q In fact, you are told, even if you want to be a suicide bomber, there's a waiting list; correct?
A No, not with Shah Sahab's group, no.
Q You were told that you first had to be approved to be a suicide bomber; correct?
A Yes.
Q You were told that you would actually have to wait before any final decision was reached; correct?
A Yes.
Q You waited for at least three days, I believe, at the Madrassa, to learn whether or not you've been accepted as a suicide bomber; correct?
A Yes.
Q And ultimately, you learned that you were rejected to even being a suicide bomber; correct?
A Yes.
Q You were rejected because, as you understood it and you were told, you did not have enough Islamic knowledge; correct?
A Correct.
Q Now, the people who you were speaking with about being a suicide bomber, you had spent quite a bit of time with them; right?
A Okay.
Q They were getting to know you; right?
A Yes.

Q And when they rejected your application to be a suicide bomber, you suspected what was really going on is they just wanted to get rid of you; right?
A Yes, that was one thought that went through my head.
Q You felt that they were just trying to keep you out of the action and were not -- they didn't really care about you; right?
A Yes.
Q So, now, at this point, after you go there and you're rejected as a suicide bomber, how much time has passed since your arrival in Pakistan?
A I think it was the last day of Ramadan of that year. Maybe three weeks.
Q Fair to say, at this point you're getting frustrated; right?
A Yes.
Q You're not doing what you came all that way over to do; correct?
A Yes.
Q So, you have a conversation with the Imam at the Malawi Madrassa; correct?
A Malawia Madrassa.
Q And you tell him about your frustration; correct?
A Yes.
Q You tell him that you wanted to get involved in training;

correct?
A Yes.
Q And the Imam tells you he's going to make calls to see if anyone's willing to take Bryant Vinas into their group; correct?
A He was calling around to see what schools I can go to. What Madrassas would except me.
Q And eventually, arrangements are made for you to go to the home of Abu Huraira; correct?
A Correct.
Q How long was it from the time you complain to the Imam and told him that you still wanted to get into training, how much time passed before he told that you arrangements were going to be made for to you go to Abu Huraira's place?
A Few weeks.
Q Fair to say that, as of that time, you have been there for at least five weeks and still no training; correct?
A Correct.
Q So, you go to Abu Huraira's Abu Huraira's home. And when you arrive there, you don't immediately go into training; do you?
A No.
Q In fact, you went to his home thinking you're going to get into training and you then spent some time just traveling around and playing with the kids at the house; correct?

A I went to his house. He said that he was going to be my escort to go to a different town where there would be a Madrassa that would except me.

When I was about to go, the Pakistan Army started fighting in that town, so that plan was canceled. I ended up staying in his home because the Army was fighting against the City I was supposed to go to.

Q And while you're at his home, you travel around to the other residences in the area for meals and you played with the kids in the neighborhood; correct?

A Yes.

Q You didn't receive any training while you were at Abu Huraira's house; did you?

A No.

Q Comes a time that you actually get into an argument with Abu Huraira about why you had to wait so long before getting into training; right?

A Yes.

Q And Abu Huraira told you that he was still trying to get you into a Jihad training camp; correct?

A Yes.

Q He told you that, possibly, he could get you into Shah Sahab's group for training; correct?

A No, he said I would go with a man named Abu Hamza. I would go to his group.

Q Didn't Abu Huraira suggest to you that he may be able to get you into Shah Sahab's group to receive training?
A I was already in Shah Sahab's group.
Q Did he tell you, specifically, that he may be able to get you into Shah Sahab's group to receive training?
A No, he said he was going to take me to see Abu Hamza. To Abu Hamza's group.
Q Do you recall speaking to the FBI agents in November of 2008 and telling them that it was Abu Huraira who agreed to try to see if he could get you into a Jihad training program and suggested he may be able to get you into Shah Sahab's group to receive training?
Do you recall saying that to the FBI agents?
A No. I said Abu Huraira offered for me to go to Abu Hamza's group.
Q So, now, after spending time with Abu Huraira, you get back and take a bus to meet with Shah Sahab; correct?
A No. I went to go see Abu Hamza.
Q Do you recall Shah Sahab saying that he will train you?
A When Shah Sahab saw -- no, correction -- when Hadith, who was the second-in-command of Abu, saw that I was ready to go with Abu Hamza, he offered then to give me training.
Q Shah Sahab then offered to give you training; correct?
A No, it was Hadith.
Q Do you recall speaking to FBI agents in November of 2008

and telling them that you eventually ended up taking a flying coach back to Mohmand Agency and met with Shah Sahab who told Vinas -- told you -- that he would take you into his group and that he would train you?
A That was after Abu Hamza was ready to take me. That's when Hadith promised to train me.
Q So, then how long, how long now are you in Pakistan at the time you have this conversation in which Shah Sahab says that he would train you? How much time had passed? How many weeks?
A This must have been around November. So, from middle of September up until middle of November.
Q And even here, once that statement is made that maybe Shah Sahab would be able to train you, you're disappointed once again; right?
A Yes.
Q Shah Sahab doesn't show up for training; correct?
A Correct.
Q Shah Sahab doesn't show up for at least two weeks; correct?
A Correct.
Q And while you're just hanging around waiting, Shah Sahab's group of fighters, they go out on a second mission; correct?
A It was Abu Hamza's group that went on a mission.

Q They didn't take you along; did they?
A No.
Q Is it fair to say that the frustration inside you with all this delay and difficulties in getting training is boiling up inside you?
A You could say, that yes.
Q But you are persistent in trying to get some training; right?
A Yes.
Q So, you then travel back and you meet up with Abu Huraira; correct?
A Yes.

(Continued on following page.)

CROSS-EXAMINATION CONTINUED

BY MR. GOTTLIEB:

Q You told him and complained to him, still no stringing, right?

A Yes.

Q And he introduces you to a friend, his friend, who's Huzafa, correct?

A Huzafa.

Q Huzafa.

A Yes.

Q And Huzafa says to you, don't worry, he can link you up with an Arab Jihadist group, correct?

A He told Abu Herrara that he could help me meet some Arabs.

Q And that's when finally Salim takes you to a training camp operated by Salim correct?

A Yes.

Q Now, during this period of time, while you were still waiting for the final word that you would be able to get training, do you remember what you spent your time doing?

A I was doing a lot of nothing, sir.

Q In fact, you did some sight-seeing, correct?

A Correct.

Q You spent some time going to juice bars, correct?

A Yes.

Q You did all that while you were still hanging around waiting to receive training, correct?
A Yes.
Q And at this point you arrive and you go to this training center for a day and a half, correct?
A Yes.
Q And that's when you are told after a day and a half that they would take you to a place in Waziristan, correct?
A Yes.
Q That's when you were told after spending time with Saleem that he will help you finally receive some training, correct?
A Correct.
Q And Huzaifa stays with you for two or three days, correct?
A Yes.
Q And during that time Saleem allows you to actually fire a variety of weapons at a nearby mountainside, correct?
A Yes.
Q Did you enjoy doing that?
A A little bit, sir, yes.
Q Then is before you even went to Waziristan for what you called was going to be the training, correct?
A Correct.
Q So after when you went there, when they allowed you to fire some weapons, that included PK machine gun, correct?

A Yes.
Q The Kolashnikov, correct.
A Yes.
Q An RPG, correct?
A Yes.
Q But you still wanted to receive training and that's why you then went to Waziristan with Saleem, correct?
A He told me he was going to try to get me into a group of Arabs. My best feeling was that it was going to be a militant group.
Q And that's when Saleem then makes arrangements for you to go to Khyber K-H-Y-B-E-R agency?
A I was already in Khyber agency when he told me that.
Q You were told that while you travelled to pretend that you were deaf, correct?
A Correct.
Q Now, it wasn't until months later that you are then taken to that house in Mir Ali, correct?
A What house, sir.
Q Were you taken to a transit house in Mir Ali at some point?
A Transit house in Mir Ali, you mean Zerraki.
Q Do you recall being taken by Zubair Al-Kuwati a transit house in Mir Ali where there were a number of Arabs waiting to start their first training?

A Okay. It was outside Mir Ali. I'm sorry.
Q That was months later, correct?
A Correct.
Q So all this time has past that you told us about and now a number of months go by and you are now arriving for the first time at this house where there are Arabs waiting to start their first training correct?
A Yes.
Q That's when you were told, as you told us on direct, about what training would be like, what training was all about, correct?
A Yes.
Q You were told that there would be basic weapons class involving instruction on mortar and cannon 82, correct?
A Correct.
Q By the way, what's Cannon 82?
A It's a bigger RPG 7. It's not like the way it looks but it is much bigger than. You use a tripod. You can use a tripod to launch rockets.
Q You were told that one of the classes in the training schedule with also be basic explosives training correct?
A Yes.
Q You were told that one of the classes in this basic training was also projectiles class involving the BM1 and Canon 82, correct?

A Yes.
Q You were told that at the conclusion of the three classes the recruits would assist in a cross border attack, correct?
A The students?
Q Recruits.
A Oh, the recruits. Afterwards you would be deployed to different area and depending on what your -- whoever your amir was, then he would tell you what you're going to participate in.
Q You were told that you must be given permission to engage in training, correct?
A Correct.
Q You were told that there was a middle ranging member of your group who would tell you when you had received permission to train, correct?
A Yes.
Q Upon arriving at this first Al-Qaeda training camp, is it not true that an overwhelming majority of the new recruits, as you understand it, are met by a coordinator and are directed to complete a questionnaire listing their skills and qualifications?
A Yes.
Q And did you do that?
A No.
Q And they waived that requirement for you?

A Yes.
Q They required it for everybody else?
A I only met one other person who didn't fill out an application like that.
Q Everybody else did, correct?
A To my knowledge, yes.
Q You were told that for this training you must be on a list and actually had to enroll in the training, correct?
A Yes.
Q Regarding this Abdul Hafeez that you told us about on direct, you never spoke to him about doing any missions for Al-Qaeda, correct?
A Correct.
Q So now that you are finally involved in training, you indicated that the first part was you thought about two weeks, correct?
A Excuse me. Say that again.
Q It was about two weeks now that you are finally involved, correct, the first part?
A Involved with what, sir?
Q The training?
A The basic course?
Q Yes.
A Yes.
Q And at this first initial training. You were taught

about Russian weapons, a little bit of electronic wiring, explosives training. Correct?
A Yes.
Q It included training in GPS and electronic circuits, correct?
A Yes.
Q It included land mine training, correct?
A Yes.
Q Night navigation training, correct?
A Yes.
Q With regard to the firing of the weapons now that you are are finally involved in training, fair to say that each student fired 30 rounds through the Kolashnikov?
A Yes.
Q Six rounds through the pistol?
A Yes.
Q Twenty rounds through the PK?
A About 20.
Q And as part of this training that you received, fair to say that there were also competitions taking apart the weaponry, correct?
A Yes.
Q Competitions that you engaged in this training taking apart the weapons blindfolded, correct?
A Yes.

Q You received instructions in land navigation, correct?
A Yes.
Q And that's when the last day of the class was, that target practice that you told us about, correct?
A Yes.
Q But this training was not complete because you then were taken to a house for house explosives training very quickly, correct?
A About two months after I had completed basic course.
Q This was more complicated, more complex explosives training beyond what you'd already been taught, correct?
A Yes.
Q And that's where you learned how to construct the suicide vest, correct?
A We learned how to build certain parts of it; not the whole thing.
Q Now, after you received all this training you didn't immediately get involved in battles, did you?
A No.
Q That really bothered you, didn't it?
A Yes.
Q You waited at least a month at different safe houses, didn't you, waiting for your orders to engage in that promised cross border missile attack?
A Yes.

Q You couldn't wait to actually be involved in that attack, could you?
A Correct.
Q So late September of 2008 you were taken with a group of fighters to a site on the border of Pakistan and Afghanistan, correct?
A Yes.
Q The target was an American base in Afghanistan, correct?
A Yes.
Q Didn't work out for you though, did, Mr. Venas?
A Can you clarify it didn't work out?
Q Nothing happened, right?
A The first time, no.
Q You had to return to the compound, correct?
A Yes.
Q But you didn't give up because you waited and you went out on the second attack, correct?
A Yes.
Q You actually were involved in launching the rockets that apparently narrowly missed the base, correct?
A I was on defensive positioning up on a higher mountain. I didn't launch the rocket, no, sir.
Q So what was your job?
A Me and three other people in the group, we were on defensive positioning in case a Pakistani helicopter was going

to come and attack us.
Q After that attack you then continued to stay with your group of fighters, correct?
A Yes.
Q Now, you told us about the Long Island Railroad plot. Are you telling us that this was just your original creative thought?
A The final plan, no, but some of the ideas that I gave in the beginning were mine, yes.
Q And you are really proud that you came up with this plot to place a bomb on the Long Island Railroad, correct?
A Yes.
Q You're really proud of this creative idea because you knew especially if it was a tunnel hundreds and hundreds of people would die, correct?
A Yes.
Q And when you came up with this idea you couldn't wait to share it with somebody, correct?
A Correct.
Q You told whoever you spoke to, you told them about the lack of security on the Long Island Railroad, correct?
A Correct.
Q You told them how easy it would be to get the bomb on the train, correct?
A Correct.

Q You actually suggested setting the bomb off at the entrance, correct?
A Okay. Yes.
Q Now, regarding your personal contacts with Abdul Hafeez, you didn't speak to him, did you, about this?
A No.
Q Did you say on direct the reason you didn't speak to him, you didn't like him?
A Correct.
Q You didn't like him because you had, like, a personal matter with him?
A Yes.
Q What was that?
A I had been approved to go to Pashto to send money to Western Union to Cuba, and he interfered with my plan to go. Another friend told me that he was testing me and I -- I took that pretty personally because it was a personal matter that I wanted to take care of and he was interfering with it.
Q And the money you wanted to send to Cuba was for who?
A For my girlfriend over there.
Q So because Hafeez wouldn't let you send the money to your girlfriend, that's why you didn't talk to him?
A Yes.
Q By the way, you were a member of the United States Army in May of 2002?

A No, March.
Q How long were you a member of the United States Army?
A About three weeks.
Q You left why?
A I didn't like it. I felt it was too mentally difficult and I quit. I dropped out.
Q When you say during those three weeks, you described that what you did was sing songs and learn how to dress properly, and march?
A Those were some of the things.
Q That was mentally overwhelming for you?
A No. The part of that was difficult was getting punished for other people's mistakes that were in the group. I never got in trouble. I just -- the accumulation of constantly getting punished was mentally tough for me.
Q So after you shared your ideas about the Long Island Railroad bombing you're not aware that anything came of that, correct?
A I don't know.
Q Your idea just sort of evaporated, right?
A No, I was arrested a little bit after that.
Q You told us that you came up with this other creative idea about attacking Wal-Mart, correct?
A Yes.
Q You felt that an attack on Wal-Mart would cripple sales

and damage the United States economy, correct?
A Yes.
Q That was rejected, wasn't it, that idea?
A Yes.
Q So with everything you did over there, when you met with the prosecutors they told you they want your help at this trial, correct?
A I wouldn't call it help, sir. They just told me I had to testify in this trial.
Q And you know that if you provide substantial assistance and the government is satisfied with you, they're going to write that 5k letter, correct?
A If I follow the plea agreement they will submit a 5k1 letter.
Q You understand that the decision as to whether or not you have complied with the agreement, that is not your decision to make, right?
A No.
Q That is not a judge's decision to make, is it?
A No.
Q That's the prosecutor's decision to make, correct?
A Yes.
Q And these are the prosecutors who were told about everything you did in going to battle in Afghanistan, correct?
A Correct. (Continued on next page)

EXAMINATION CONTINUES BY MR. GOTTLIEB:

Q Those are the prosecutors who are going to decide whether or not to give you your break; correct?

A I don't know if I'm going to get a break, sir. That is up to the judge.

Q Actually, it's going to be up to the prosecutors, correct?

MR. LOONAM: Objection. Argumentative?

THE COURT: Overruled.

Q Right, it's up to the prosecutors whether or not to write the letter to thing judge asking that you be given the break, right?

A They are to hand in the 5.K1. It's up to the judge to give me a sentencing, sir. It's only up to the judge what he can give me.

Q When you were meeting with the prosecutors in preparation your testimony, they told you that the defense attorney was going to be asking you about this 5K letter, right.

A It came up, yes.

Q Yes.

MR. GOTTLIEB: Thank you, sir.

THE COURT: Any redirect?

MR. LOONAM: Yes, your Honor, briefly.

THE COURT: Thank you, Mr. Gottlieb.

REDIRECT EXAMINATION
BY MR. LOONAM:
Q Mr. Vinas, you were asked questions on cross-examination about paragraph four of your cooperation agreement. Do you remember those questions?
A Not all of them.
Q You were asked questions that the government was not going to prosecute you for attempting to attack an Afghan military base in approximately 2007, correct?
A Okay.
Q And you were asked questions about the government wasn't going to prosecute you for receiving military style training from al-Qaeda, correct?
A Right.
Q And the government wasn't going to prosecute you for --
THE COURT: Slow down. Speak a little slower. We have the list in front of us. We understand your question now. I don't think you need to repeat the whole paragraph.
Q If we go to the top of the paragraph, sir, that paragraph begins: Except as provided in paragraphs 1, 8 and 9 of this agreement; correct?
A Okay.
Q Paragraph one indicates that you had to plead guilty to a three count information, correct?
A Yes.

Q And that three count information included counts of conspiracy to murder United States nationals, correct?

A Yes.

Q In connection with that count, you had to talk about certain things you did, certain overt acts; do you remember that?

A Yes.

Q Do you remember what those overt acts included off the top of your head, do you remember?

A What do you mean by "overt"?

Q Do you remember what acts you had to plead guilty to as part of the conspiracy to kill U.S. personnel?

A The other two charges?

Q No, within that charge. Do you remember the acts you had to plead guilty to?

A The attack on U.S. base.

Q And so you had to plead guilty to the attack on the U.S. base?

A Yes.

Q And for providing material support to a foreign terrorist organization; do you remember what you had to plead guilty to with respect to that count?

A Yes.

Q What sentence do you face as a result of the crimes that you pled guilty to?

A Life.
Q You were asked some questions about the lack of training when you were with Shah Sahb, do you remember those questions?
A Yes.
Q Was Shah Sahb part of al-Qaeda?
A No.
Q Once you were connected with al-Qaeda, how long did it take until you began your training?
A Less than a week.
Q This is just a point for clarification. You were asked some questions about Salim and then the questions moved to your al-Qaeda training. Was it Salim who took you to the al-Qaeda training camp?
A No.
MR. LOONAM: If I can show the witness, your Honor?
Q Have you ever seen anything like that before?
A Yes.
Q What does that resemble to you?
A That is an RPG 9.
Q I'm showing you Government Exhibit 58 marked for identification. Did you receive any training on that weapon?
A Yes.
MR. LOONAM: If we could publish that to the jury.
THE COURT: You offer it?
MR. LOONAM: It's in evidence.

THE COURT: All right.
Q Where did you receive training on that weapon?
A In the projectile weapons theory class.
Q So that was the third class you took that you received training on that weapon?
A Yes.
MR. LOONAM: No further questions, your Honor.
THE COURT: Thank you, Mr. Loonam.
Is there anything further?
MR. GOTTLIEB: No, your Honor.
THE COURT: You're excused. Thank you, have a good day.
(Witness excused.)
THE COURT: Call your next witness.
MR. LOONAM: The government calls Matthew Nahas.

MATTHEW NAHAS,
called as a witness, having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION
BY MR. LOONAM:

Q Good afternoon.
A Good afternoon.
Q What do you do for having?
A I am a special agent with the FBI.
Q How long have you been a special agent with the FBI?

A Three years.
Q And what are your job responsibilities currently?
A I investigate violations of U.S. Federal Code.
Q Directing your attention to September 14, 2009. Did you conduct a search of an apartment on that day?
A Yes, sir.
Q Was that search conducted pursuant to a search warrant?
A Yes, sir.
Q And do you remember the address where you conducted the search?
A Yes, sir.
Q Where did you conduct the search?
A 144-67 41st Avenue.
MR. LOONAM: I can try to do this on the Elmo, your Honor?
THE COURT: All right.
In what borough?
THE WITNESS: Queens.
Q I am going to mark this as Government Exhibit 600.
Do you recognize Government Exhibit 600?
A Yes, sir, I do.
Q What do you recognize it to be?
A It's a scale.
Q And how do you recognize this item?
A I found it in the residence on the search warrant.

Q Where did you find it in the residence?
A It was in a closet immediately inside of the front door, to the left.

MR. LOONAM: Your Honor, the government offers Exhibit 600.

THE COURT: Any objection?

MR. DINNERSTEIN: No objection.

THE COURT: Received.

(So marked.)

MR. LOONAM: No further questions for this witness, your Honor.

THE COURT: Mr. Dinnerstein.

CROSS-EXAMINATION

BY MR. DINNERSTEIN:

Q Do you know whose home that is?
A No, I do not.

MR. DINNERSTEIN: Nothing else.

THE COURT: Thank you, Mr. Dinnerstein.

I don't suppose there is a redirect?

MR. LOONAM: No, your Honor.

THE COURT: All right. You're excused. Thank you. Have a good day.

(Witness excused.)

THE COURT: Call your next witness.

MR. LOONAM: The government calls Salman Naqvi.

SALMAN NAQVI,

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LOONAM:

Q What do you do for a living?

A I am a special agent with the FBI.

Q How long have you been a special agent with the FBI?

A About three and a half years.

Q Are you assigned to a particular squad?

A Yes, assigned to CT-2, which is counterterrorism 2, which investigates matters pertaining to Afghanistan, Pakistan, terrorist threats coming from there.

Q Directing your attention to September 29, 2009. Did you conduct a search on that day?

A Yes, I did.

Q Was that search pursuant to a court-authorized search warrant?

A Yes, it was.

Q And do you remember the address where you conducted that search?

A Yes, I do.

Q Where was the address?

A It was 144-67 41st Avenue, Flushing, New York.

Q Do you know who lived at that apartment where you

conducted the search?
A Yes. Naiz Khan.
Q Did you recover any items during the course of that search?
A Yes, we did.
Q I'm going to show just the witness what is marked for identification as Government Exhibit 205.
Do you recognize Government Exhibit 205?
A Yes, I do.
Q What do you recognize it to be?
A It's an Office Depot calculator that we seized that day of the search on the 29th.
Q Where did you seize this calculator?
A This was in a closet; as soon as you entered the residence to the left-hand side of the closet, right down on the left.
MR. LOONAM: The government offers 205, your Honor.
MR. DINNERSTEIN: No objection.
THE COURT: Received.
MR. LOONAM: No further questions.
CROSS-EXAMINATION
BY MR. DINNERSTEIN:
Q Did you prepare the search warrant?
A No, I did not.
Q Do you know who did?

A No, I do not.

MR. DINNERSTEIN: Nothing else.

THE COURT: Thank you. You are excused. Have a good day.

(Witness excused.)

THE COURT: Please call your next witness.

MR. LOONAM: Can I confer with the defense, please?

THE COURT: Yes.

(Pause.)

(Continued next page.)

MR. LOONAM: Thank you, Your Honor, the Government calls John Ross to the stand.

THE COURT: Okay.

(Witness enters and takes stand.)

THE COURT: Good afternoon.

THE WITNESS: Good afternoon.

THE COURT: Dan, could you please swear the witness.

THE COURTROOM CLERK: Please, raise your right hand.

J O H N R O S S,

called by the Government, having been first duly sworn, was examined and testified as follows:

THE COURTROOM CLERK: Please have a seat, state and spell your name for the record.

THE WITNESS: John Ross -- R-O-S-S.

MR. LOONAM: May I enquire, Your Honor?

THE COURT: Yes, you may.

DIRECT EXAMINATION

BY MR. LOONAM:

Q Good afternoon.

A Good afternoon.

Q Who do you do for a living?

A I'm an investigator with the U.S. Attorney's office.

Q All right, and what are your job responsibilities as an

investigator for the United States attorneys office?
A I'm assigned to the Joint Terrorist Task Force and work on investigations that are being conducted by the U.S. Attorney's Office.
Q How long have you held that position?
A Approximately, nine years.
Q And prior to working for the United States Attorney's office, what did you do for a living?
A I was a detective with the New York City Police Department for over 20 years.
Q And as a detective with the New York City Police Department, what was your last assigned duty?
A I was assigned to a unit called the Technical Assistance Response Unit, also called TARU.
Q And as a detective assigned to TARU, what were your job responsibilities?
A We conducted the technical aspects of major investigations being conducted by the various units within the New York City Police Department, such as, you know, homicide, kidnappings, major narcotics, and organized crime.
Q And how long did you work as a detective with the TARU unit?
A Approximately, 15 years.
Q Now, in connection with the investigation into the defendant, did you have an opportunity to review toll records

in this case?
A Yes.
Q And those are phone toll records; correct?
A Yes.
Q Can you tell the Members of the Jury what phone toll records are?
A Toll records are basically billing records that are maintained by various telecommunications carriers in order to bill their customer and collect the money.
Q All right. Do toll records reflect the content of phone calls?
A No.
Q And do toll records tell you who was using a particular phone at a particular time?
A No.
Q Now, during your work on this case, did you review phone toll records for the following phone numbers: (718) 216-6644, (303) 500-2877, (212) 671-2381, (718) 552-0944, (718) 661-2645, (917) 217-3319, (347) 863-4322, and 911?
A Yes.
Q And your review of those toll records, did you summarize the contacts between those various phone numbers that we just listed?
A Yes.
MR. LOONAM: All right, Your Honor, if I could just

show the witness.

THE COURT: Yes.

MR. LOONAM: I am showing you what is marked as Government's Exhibit 173 for identification.

(The above-referred to Exhibit was published to the witness.)

Q Do you recognize this document that's Government's Exhibit 173?

A Yes.

Q What do you recognize it to be?

A That's the first page of the summary document that was prepared.

Q Okay.

MR. LOONAM: Your Honor, the Government offers 173 into evidence at this time as a summary Exhibit.

THE COURT: All right.

All prior objections preserved; that said, anything further on the subject?

MR. GOTTLIEB: No, Your Honor.

THE COURT: Proceed.

(Government's Exhibit 173 was received in evidence.)

MR. LOONAM: Okay, let's go through the phone numbers first.

(The above-referred to Exhibit was published to the jury.)

Q The first phone number that's indicated in yellow, what's that phone number?
A That's (718) 216-6644. The Adis Medunjanin cell phone.
Q Okay. And the (303) number?
A You have to bring it down a little bit.
Q Oh.
(Complies.)
Q Is that better?
A Yes, okay.
Q All right?
A (303) 500-2877, Najibullah Zazi's cell phone.
Q And that's indicated in green; correct?
A Yes.
Q And the next phone number?
A (212) 671-2381, Najibullah, pre-paid cell phone.
Q All right. And also, indicated in green; correct?
A Yes.
Q And then the next set of newspapers?
A (718) 552-0944. Zarein Ahmedzay cell phone in purple.
Q And the next number?
A (718) 661-2645. Zarein Ahmedzay home phone number, also shaded in purple.
Q And then, the number there that appears in blue?
A (917) 217-3319, funeral home cell phone.
Q And then the number in, I don't know, beige?

A (347) 863-4322, Zakir Khan's cell phone.
Q And the number in red, finally, is 911 emergency?
A 911, correct.
Q Okay. Now, when you look at these records, there is a date, time, originating number, terminating number, duration, and Exhibit.

The date, what does that reflect?
A That's the date that the call was initiated or received.
Q Okay. And the time, what does the time reflect?
A The time that the call was made.
Q Okay. Now on certain occasions, such as what I'm indicating on 8/2/08, to demonstrate, there are two times listed for a particular communication.

Can you explain to the Members of the Jury why there are two times listed for a communication?
A Well, there are several reasons why there could be two different times for the same call.

In that particular case, the (212) 671-2381 number is a T-Mobile pre-paid cell phone, which they're billing records are kept in Pacific Time and not in Eastern Standard Time.

And additionally, there may be discrepancy in the minutes because all the, all the different carriers are not on the same clock. Every -- like AT & T's time would be a little bit different than T-Mobile's time. So, you have to take that

into account, also.
Q All right. Now, originating number --
THE COURT: When you say minutes, are you talking about duration?
THE WITNESS: No. I'm talking about the minutes of the time.
THE COURT: In the time, thank you.
THE WITNESS: Correct.
THE COURT: I'm sorry, go ahead, Mr. Loonam.
MR. LOONAM: Thank you, sir.
Q Now, the column for originating number, what does that indicate?
A That indicates the number that originated or made the call. Dialled the call.
Q And the terminating number?
A Is the party that received the call.
Q Okay. Now the duration, explain what the duration column indicates.
A The length of billable time of the call.
Q All right. Now, does the length of billable time necessarily correspond to how long the duration of the call actually was?
A Not necessarily. Some carriers actually will give you the actual duration of your call and some carriers round up to the next minute.

Q Okay. And then the Exhibit column references the toll records that actually reflect the other information contained in the row; correct?

A Yes.

Q Now, when you look down at certain of these records, there are two entries. For example, on 7/28/08, there is a call originating from the secure con telephone and terminating at the Adis Medunjanin cell phone. And that's reflected on two Exhibits, the secure cell and the a.m. cell.

However, if you look at just the very next entry --

THE COURT: Is this a question?

MR. LOONAM: It will, I'm going explain it Your Honor, I apologize.

Q The next Exhibit only indicates one record.

What's the significance of that?

A That just shows that, in the particular record that has two Exhibits, it just means that the call appeared in both billing records; in the phone that originated the call and the phone that received the call.

Q Okay. All right. And what are the various reasons why a record may appear in only one set of toll records?

A Well, there are a number of reasons, but generally it may not appear in the -- on the terminating number, the party that received the call. The most, generally, the most times that you would see that happen is if a call was not actually answered, it was answered by the voicemail system. Then the billing, the billing system would not kick in.

There were also times when a call is actually made and received where the billing system just doesn't pick it up.

MR. LOONAM: Publishing for the jury Government's Exhibit 131 in evidence, Your Honor.

THE COURT: Okay.

(The above-referred to Exhibit was published to the jury.)

MR. LOONAM: I'm going direct you to paragraph one.

Q Paragraph one of 131 indicates what, Investigator Ross?

A You want me to read it?

Q Yes.

A ***"On August 28th, 2008, the defendant Adis Medunjanin, Najibullah Zazi, and Zarein Ahmedzay flew from Newark Liberty International Airport in Newark, New Jersey to Bacha Khan International Airport in Peshawar, Pakistan via Geneva, Switzerland and Doha, Qatar.***

Medunjanin, Zazi, and Ahmedzay traveled on Qatar Airways, flight number 84."

Q Okay. Now in connection with your work, did you have an opportunity to review phone records that reflected contacts prior to August 28th, 2008?

A Yes.

Q All right. Just focusing on the preceding month of calls

of July 28th, 2008.
How many contacts, if any, did the tolls reflect for calls between the Adis Medunjanin cell phone number and the Zakir Khan cell phone number?
A Four.
Q And are those the four contacts we see here between 7/28/08 and 7/29/08?
A Yes, correct.
Q How many contacts occurred between the Najibullah Zazi pre-paid cell phone and the Adis Medunjanin cell phone between July 28th and August 28th of 2008?
A I have notes. I mean...
Q Oh, did you have an opportunity to review these records and create totals prior to your testimony here today?
A Yes.
MR. LOONAM: All right. And then you can refer to those notes to refresh your recollection?
(Complies.)
Q And if you could just indicate, when you're looking at a note, when there's a number at the bottom of it?
A I don't think I have a copy with the Exhibit numbers on them.
MR. LOONAM: Okay.
(Pause in the proceedings.)
MR. LOONAM: It's JR-9. We'll refer to that

document as 3500-JR-9, okay?
Q So, what were the total number of calls between the Najibullah Zazi pre-paid cell and Adis Medunjanin from July 28th to August 28th?
A 43.
Q And what was the breakdown for those calls?
A There were 18 calls originated by the Adis cell phone to the Najibullah Zazi pre-paid cell phone, and there were 25 calls that were originated by the Najibullah Zazi cell phone to the Adis cell phone.
Q Okay. And what about the total number of contacts during that same period, prior to August 28th between the Zarein Ahmedzay cell phone and the Adis Medunjanin cell phone?
A There were 22 contacts in total.
Q All right. What was the breakdown for that?
A There were 13 that were originated by the Adis cell phone to the Zarein Ahmedzay cell phone and nine that were originated by the. Zarein Ahmedzay cell phone to the Adis cell phone.
Q All right. And what was or how many contacts were there between Zarein Ahmedzay and Najibullah Zazi during that same period or at least --
MR. LOONAM: Let me strike that.
Q How many contacts were there between the Najibullah Zazi Najibullah Zazi pre-paid cell phone and the Adis Medunjanin

cell phone during that same period?
A I'm sorry, say that again?
Q Sorry. How many contacts were there in that same period between the Najibullah Zazi pre-paid cell phone and the Zarein Ahmedzay cell phone?
A There was 43.
MR. LOONAM: Now, I'm showing you the records for the Najibullah pre-paid cell phone.
(The above-referred to Exhibit was published to the jury.)
Q Do those records carry forward into 2009?
A Yes.
Q The records for the pre-paid cell phone do?
A Oh, no, not the pre-paid, no.
Q When do the records for the pre-paid cell phone end?
A I would have to have them in front of me.
Q Okay. Does Najibullah Zazi have another number attributed to him; this (303) 500-2877 number?
A Yes.
Q All right. When is that phone initiated? When does that phone first begin?
A March 17th, 2009.
MR. LOONAM: Now looking at the calls beginning in March; right? March 17.
(The above-referred to Exhibit was published to the

jury.)

Q How many contacts are there between Najibullah Zazi, the Najibullah Zazi cell phone and the Adis Medunjanin cell phone in April?

A I would have to -- April of 2009?

Q Correct.

A Okay. In April 2009, there were four contacts between the Adis cell phone and the Najibullah Zazi cell phone with the (303) area code.

Q Okay. And were there any contacts at all between the Najibullah Zazi cell phone and the Zarein Ahmedzay cell phone during that same time period?

A No.

THE COURT: Let's break for the day.

MR. LOONAM: Yes, Your Honor.

THE COURT: Don't discuss the case. Have a nice evening. Safe home.

All rise.

Good night.

THE JURY: Good night.

(Jury exits at 5:02 p.m.)

(Continued on following page.)

(In open court.)

(The following occurs outside the presence of the jury.)

THE COURT: Okay. Let's do another audit. Where are we in the case? And where are we going?

MR. BITKOWER: At this pace, Your Honor, I expect we will rest Wednesday morning.

THE COURT: Okay, what's coming tomorrow?

MR. BITKOWER: After Investigator Ross finishes, we have one more search witness who will be brief, I expect. The bomb expert, Mr. Yaeger. The Al Qaeda expert, Mr. Coleman. The post-arrest statement, two surveillance agents from the car crash, and that's it.

THE COURT: Okay, time to plan. Can I expect a defense case?

MR. GOTTLIEB: Yes, Your Honor.

THE COURT: Of what type of length?

MR. GOTTLIEB: Should be short. Two witnesses, two members of the family.

THE COURT: All right, so we'll sum up this week, it sounds like.

Good night.

ALL: Good night, Your Honor.

(Whereupon, the proceedings were adjourned to April 24th, 2012, at 9:30 a.m.)

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REDIRECT EXAMINATION	1	1193	1
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CROSS-EXAMINATION	1	1198	13
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SALMAN NAQVI	1	1199	1
CROSS-EXAMINATION	1	1200	21
BY MR. DINNERSTEIN			
J O H N R O S S	1	1202	9
DIRECT EXAMINATION	1	1202	19
BY MR. LOONAM			

Government Exhibit 100	1	1070	22
Government Exhibit 100-C	1	1071	3
Defendant's Exhibit A, B and C	1	1074	9
A is received.	1	1074	16
(So marked.)			
Defendant's Exhibit B --			

B is received and is C.

Government Exhibit 451

451	1	1075	5
17	1	1096	8
317	1	1150	15
600	1	1198	5
205	1	1200	17
Government's Exhibit 173	1	1205	21

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